
GROUND WATER MANAGEMENT RULES AND REGULATIONS

Lower Republican Natural Resources District

Effective ###, 2022

**LOWER REPUBLICAN NATURAL RESOURCES DISTRICT
GROUND WATER MANAGEMENT RULES AND REGULATIONS**

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AUTHORITY – The Lower Republican Natural Resources District (“LRNRD” or “District”) adopts these Rules and Regulations pursuant to the authority granted in the Nebraska Ground Water Management and Protection Act (“Act”), Chapter 46, Article 7.

PURPOSE – These Rules and Regulations are adopted for the following purposes: (1) to protect Ground Water quantity; (2) to prevent or resolve conflicts between Ground Water users and surface water appropriators in those areas where Ground Water and surface water are hydrologically connected; and (3) to implement the necessary controls to carry out the goals and objectives identified in the Integrated Management Plan (“IMP”) jointly adopted by the LRNRD and the Nebraska Department of Natural Resources (“DNR”).

CHAPTER 1 – DESIGNATION OF BOUNDARIES AND MANAGEMENT AREA

- 1-1.** These Rules and Regulations apply within the entire geographic boundary of the LRNRD. The stratigraphic boundary is from the land surface to the base of the underlying sand and gravel layers that contain the water bearing material. The base of the sand and gravel layers rest on impervious layers of Niobrara Chalk, Pierre Shale or formations of the White River Group. The entire District is designated a Management Area pursuant to NEB. REV. STAT. § 46-712. The boundaries of the District and The Rapid Response Area, as defined in Rule 2-49, identified in the most recent Integrated Management Plan.

CHAPTER 2 – DEFINITIONS

- 2-1.** Abandoned Well: Any Water Well (1) the use of which has been accomplished or permanently discontinued, (2) which has been decommissioned as described in the rules and regulations of the Department of Environment and Energy, and (3) for which the notice of abandonment required by subsection (2) of NEB. REV. STAT. § 46-602 has been filed with DNR by the licensed Water Well contractor or licensed pump installation contractor who decommissioned the Water Well or by the Water Well owner if the owner decommissioned the Water Well.
- 2-2.** Allocation: As it relates to water use for irrigation purposes, means the allotment of a specified total number of acre-inches of Ground Water per certified irrigated acre assigned to that Regulated Water Well over the Allocation Period. As it relates to other purposes, means the allotment of a determined quantity of Ground Water.
- 2-3.** Allocation Period: The number of years over which an Allocation can be used.
- 2-4.** Applicator: Any Person engaged in the application of chemicals by means of chemigation, including any Person operating equipment used for chemigation whether for himself or herself or on behalf of the Permitholder for the land on which the chemigation will take place.
- 2-5.** Base Allocation: An amount of Ground Water, in acre-inches, derived from dividing the Allocation by the Allocation Period.
- 2-6.** Baseline of Commercial or Industrial Use: The amount of Ground Water used by a commercial or industrial user as computed in Rule 6-4.1.

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- 2-7. Baseline of Municipal Use: The amount of Ground Water used by a municipality as computed in Rule 6-3.2.
- 2-8. Beneficial Use: That use by which water may be put to the benefit of humans and other species.
- 2-9. Board: The elected Board of Directors of the Lower Republican Natural Resources District.
- 2-10. Carry-Forward: That part of an Allocation that is unused during the Allocation Period, which may be credited to a subsequent Allocation Period in accordance with District Rules and Regulations.
- 2-11. Certification: The process whereby the beneficial uses of Ground Water for a Regulated Water Well is identified, recorded and approved by the District.
- 2-12. Certified Irrigated Acres: The number of acres or portion of an acre that the Board has approved for irrigation from Ground Water in accordance with the law and the District rules and regulations.
- 2-13. Chemigation: Any process whereby chemicals are applied to land or crops in or with water through an on-farm irrigation distribution system.
- 2-14. Commingling or Commingled Acres: The ability to use or practice of using both surface water and Ground Water on the same tract of land for irrigation purposes or acres where commingling is possible or practiced.
- 2-15. Commercial Water User: A Person who uses Ground Water for commercial purposes, including but not limited to, maintenance of the turf of a golf course.
- 2-16. Compact Call Year: A year in which DNR's forecast procedures, set forth in Section IX of the Integrated Management Plan, indicate the potential for non-compliance with the Republican River Compact if sufficient surface water and Ground Water controls and/or management actions are not taken.
- 2-17. Consumptive Use: That amount of water that is consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use are lawfully made.
- 2-18. Decommission: The act of filling, sealing, and plugging a Water Well in accordance with the Department of Environment and Energy.
- 2-19. Dewatering Well: A Water Well which is constructed for the purpose of temporarily lowering the Ground Water surface elevation.
- 2-20. Flow Meter: A device, approved by the LRNRD, to measure the quantity of Ground Water pumped, withdrawn, or taken from a Water Well.
- 2-21. Governmental Uses: Any Ground Water supplied to a governmental entity, including school districts, counties, and other political subdivisions, state agencies, or federal agencies.

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- 2-22.** Ground Water: That water which occurs in or moves, seeps, filters, or percolates through the ground under the surface of the land.
- 2-23.** Historic Consumptive Use: That amount of water that has previously been consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use was lawfully made.
- 2-24.** Illegal Water Well: (a) Any Water Well operated or constructed without or in violation of a permit required by the Act; (b) any Water Well not in compliance with District Rules and Regulations; (c) any Water Well not properly registered in accordance with NEB. REV. STAT. §§ 46-602 to 46-606; or (d) any Water Well not in compliance with any other applicable laws of the State of Nebraska or with rules and regulations adopted and promulgated pursuant to such laws.
- 2-25.** Integrated Management Plan: A plan adopted between DNR and the District pursuant to NEB. REV. STAT. § 46-715 and the Republican River Compact, the object of which is to manage a river basin, subbasin, or reach to achieve and sustain a balance between water uses and water supplies for the long-term. The District has adopted such a plan, as set forth in a separate document, effective October 1, 2011.
- 2-26.** Inactive Status Well: A Water Well that is not currently in use, but is in a good state of repair and for which the owner has provided evidence of intent for future use by maintaining the Water Well in a manner which meets the following requirements: (1) the Water Well does not allow impairment of the water quality in the Water Well or of the Ground Water encountered by the Water Well; (2) the top of the Water Well or Water Well casing has a water-tight welded or threaded cover or some other water-tight means to prevent its removal without the use of equipment or tools to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes or contaminants into the Water Well; and (3) the Water Well is marked so as to be easily visible and located and is labeled or otherwise marked as to be easily identified as a Water Well and the area surrounding the Water Well is kept clear of brush, debris, and waste material. An inactive status Water Well shall be registered as such in the well registration records of DNR.
- 2-27.** Incentive Program: A program that may require agreements or covenants concerning the use of land or water as necessary to produce the benefits for which the program is established.
- 2-28.** Industrial Water User: A Person who uses Ground Water for industrial purposes, including but not limited to, manufacturing and power generation.
- 2-29.** Industrial Well: A Water Well designed and constructed to be used for industrial purposes including manufacturing, commercial and power generation uses of water. Commercial use includes, but is not limited to, maintenance of the turf of a golf course.
- 2-30.** Inefficient or Improper Irrigation Run-Off: The occurrence of Irrigation Run-Off Water derived from Ground Water which (a) contributes to the accumulation of water upon or beneath the surface of land of another Person(s) to their detriment, damage or inconvenience; (b) causes or contributes

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to the deterioration of water quality by depositing sediment and/or associated chemicals in surface water within the area; and (c) contributes to the flow of Ground Water to waste.

- 2-31.** Integrated Management Area or Management Area: The entirety of the LRNRD as stated in Rule 1.1 of these Rules and Regulations.
- 2-32.** Irrigation Run-Off Water: Ground Water used for irrigation purposes, which escapes from land, owned, leased or otherwise under the direct supervision and control of a Ground Water user.
- 2-33.** Landowner: Any Person who owns or is in the process of purchasing land.
- 2-34.** Late Permit: A permit applied for after construction has commenced on a regulated Water Well pursuant to NEB. REV. STAT. § 46-735.
- 2-35.** Management Actions: Any action taken by the Board that includes but is not limited to Ground Water or surface water leases, Ground Water or surface water purchases, augmentation projects, or any other program or project to ensure compliance with the District's Integrated Management Plan.
- 2-36.** Occupation Tax: A tax that the District may levy upon the activity of irrigation of agricultural lands on an annual basis, not to exceed ten dollars per irrigated acre.
- 2-37.** Offset: Any water that is used to compensate for Ground Water that has been withdrawn since the effective date of NEB. REV. STAT. § 46-740 when such withdrawal is considered to be an expanded or new use. "Offset" may also include any water that the LRNRD requires an applicant to provide to compensate for Ground Water that will be withdrawn pursuant a Variance granted under Rule 5-7.
- 2-38.** Offset Account: A tracking system for the amount of credits and debits for a municipal or industrial/commercial user pursuant to Rules 6-3 and 6-4.
- 2-39.** Operator: The Person who controls the day-to-day operation of the Water Well.
- 2-40.** Overlying Land: The land that has been certified as being irrigated by a Regulated Water Well as per Rule 5-6.
- 2-41.** Permit to Construct a Well: A document that must be obtained from the LRNRD in accordance with Rule 5-2 before construction of a regulated Ground Water well may be commenced in the Management Area pursuant to NEB. REV. STAT. § 46-735.
- 2-42.** Permitholder: The Landowner or operator of land who applies or authorizes the application of chemicals to such land by means of chemigation.
- 2-43.** Person: A natural person, partnership, limited liability company, association, corporation, municipality, irrigation district, agency or political subdivision of the state, or a department, agency, or bureau of the United States.

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- 2-44. Pooling Agreement: An agreement approved by the District between two or more Landowners for the purpose of allocating ground water among the total combined Certified Irrigated Acres identified in such agreement.
- 2-45. Pooling Arrangement: An arrangement approved by the District by a single landowner to combine more than one tract of land under common ownership for the purpose of allocating Ground Water among the total combined Certified Irrigated Acres identified in the arrangement.
- 2-46. Public Water Supplier: A city, village, municipal corporation, metropolitan utilities district, rural water district, natural resources district, irrigation district, reclamation district, or sanitary improvement district which supplies or intends to supply water to inhabitants of cities, villages, or rural areas for domestic or municipal purposes.
- 2-47. Public Water System: System for providing the public with water for human consumption, as further defined in 179 N.A.C. 2.
- 2-48. Range Livestock Well: A Water Well that is used for the watering of range livestock and other uses of water directly related to the operation of a pasture or range.
- 2-49. Rapid Response Area: The area with a stream flow depletion factor of ten (10) percent or more in a five-year period as identified in the most recent Integrated Management Plan.
- 2-50. Regulated Water Well: A Water Well designed and constructed to pump more than fifty (50) gallons per minute. A series of Water Wells, with a combined discharge of more than fifty (50) gallons per minute, of which the water is commingled, combined, clustered or joined as a single unit for a single purpose, shall be considered as one Regulated Water Well.
- 2-51. Replacement Water Well: A Water Well which is constructed to provide water for the same purpose as the original Water Well and meets the criteria of Rule 5-3. A Replacement Water Well, as defined in NEB. REV. STAT. § 46-602 or as further defined in LRNRD Rules and Regulations, is subject to the same provisions as the Water Well it replaces.
- 2-52. Staff Committee: A Committee comprised of the General Manager, Assistant General Manager, and Water Resources Administrator. The Chair of the Board may appoint an alternative member of the District staff to temporarily serve on the Staff Committee in the event of a vacancy or if a Committee member is unable to perform the duties required by the Committee and such inability would cause undue delay of Committee business.
- 2-53. Test Hole: A hole designed solely for the purpose of obtaining information on hydrologic or geologic conditions.
- 2-54. Unregulated Well: A Water Well designed and constructed to pump fifty (50) gallons per minute or less and is not commingled, combined, clustered, or joined with other Water Wells.
- 2-55. Variance: Approval to (a) deviate from a restriction imposed under subsection (1), (2), (8), or (9) of NEB. REV. STAT. § 46-714 or (b) act in a manner contrary to existing Rules or Regulations of the District, which rule or regulation is otherwise applicable.

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- 2-56.** Water Short Year: A year in which the projected or actual irrigation supply is less than 119,000 acre-feet of storage available for use from Harlan County Lake as determined by the United States Bureau of Reclamation for the Republican River Compact Administration.
- 2-57.** Water Well: Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for Ground Water, monitoring Ground Water, utilizing the geothermal properties of the ground, obtaining hydrogeologic information, or extracting water from or injecting fluid as defined in NEB. REV. STAT. § 81- 1502 into the underground water reservoir. Water Well includes any excavation made for any purpose if Ground Water flows into the excavation under natural pressure and a pump or other device is placed in the excavation for the purpose of withdrawing water from the excavation for irrigation. For such excavations, construction means placing a pump or other device into the excavation for the purpose of withdrawing water for irrigation. Water Well does not include (a) any excavation made for obtaining or prospecting for oil or natural gas or for inserting media to re-pressurize oil or natural gas bearing formations regulated by the Nebraska Oil and Gas Conservation Commission or (b) any structure requiring a permit by DNR used to exercise a surface water appropriation.

CHAPTER 3 – ENFORCEMENT AND PENALTIES

RULE 3-1. Enforcement

- 3-1.1.** Penalties for violating certain provisions of these Rules and Regulations are identified below, which penalties may be enforced without the need for the LRNRD to issue a cease and desist order. To the extent that specific penalties are not identified below, these Rules and Regulations shall be enforced by the LRNRD through the use of cease and desist orders issued in accordance with the NEB. REV. STAT. § 46-707(h).
- 3-1.2.** Complaints against a Ground Water user or other Person within the District for non-compliance with the Act or these Rules or Regulations may be filed by any Person . Complaints must be submitted to the District in writing on a form provided by the District and should include as much information as known by the filer, including, but not limited to, the name of the filer, the name of the alleged violator, the provision or rule allegedly violated, and a description of the facts relating to the alleged violation, including any evidence available to the filer to support a finding that the provision or rule was violated.
- 3-1.3.** Upon filing of a complaint, the District shall review the complaint for completeness and, if necessary, conduct an investigation for the purpose of determining the extent of the alleged violation and obtaining any additional information that may be reasonably necessary for the Board to determine whether a violation has occurred. If an investigation is conducted, an investigation report summarizing the investigation and any evidence gathered shall be attached to the complaint and submitted to the Board with the complaint for consideration.
- 3-1.4.** If the Board, upon receipt of the complaint and/or investigation report, determines there is sufficient cause to open a proceeding against the alleged violator, the Board shall notify the alleged violator in writing of its intent to issue a cease and desist order. The notice of intent to issue a cease and desist order shall include the general grounds for the action, the contemplated action, and a

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date and time for a hearing no less than ten days after the date of issuance where the Person may have a reasonable opportunity to be heard before the Board. A copy of the complaint and/or investigation report shall be attached thereto.

- 3-1.5** The hearing shall afford both the District and the alleged violator the opportunity to present testimony and evidence regarding the allegations contained within the complaint, investigation report, or notice of intent to issue a cease and desist order.
- 3-1.6.** If an alleged violator or an agent thereof is unable to appear at the date and time of the hearing provided in the notice of intent to issue a cease and desist order for reasons and with notice that are satisfactory to the General Manager and/or the Chairman of the Board, the General Manager and/or the Chairman of the Board may issue a notice of hearing in writing stating a new date and time where the Person may have a reasonable opportunity to be heard before the Board.
- 3-1.7.** When the notice of intent to issue a cease and desist order has provided notice of a properly scheduled formal hearing and the alleged violator has failed to appear or respond, the Board may:
- 3-1.7.1.** Review the complaint and/or the inspection report, as well as any other pertinent information; and
 - 3-1.7.2.** Issue a cease and desist order or other order, if appropriate.
- 3-1.8.** Pursuant to NEB. REV. STAT. §§ 46-707(h) and 46-746(1), the Board may issue cease and desist orders to enforce any of the provisions of the Act, orders or permits issued pursuant to the Act, or the District's Rules and Regulations, to initiate suits to enforce the provisions of orders issued pursuant to the Act, and to restrain the construction of Illegal Water Wells or the withdrawal or use of water from Illegal Water Wells.
- 3-1.9.** It is presumed that any Person subject to these Rules and Regulations has full knowledge of their contents, requirements, and prohibitions. No Person shall be able to use ignorance of the provisions of these Rules and Regulations as a defense in any enforcement action or penalty proceeding.
- 3-1.10.** The Board may initiate appropriate legal actions in the District Court of the County where the violation has occurred whenever necessary to enforce any action or orders of the District in accordance with District Rules and Regulations.

RULE 3-2. Penalties

- 3-2.1.** Unless otherwise provided, imposition of penalties shall be at the discretion of the Board and may include, but are not limited to:
- (a) a reduction (in whole or in part) of a Person's Allocation of Ground Water;
 - (b) a reduction (in whole or in part) of a Person's Certified Irrigated Acres;
 - (c) decommissioning of Water Wells; and
 - (d) denial, cancellation, or revision of a Pooling Arrangement or Pooling Agreement submitted or previously approved pursuant to Rule 6-2.
- 3-2.2.** Where penalties are enumerated in the Rules and Regulations, the Board may impose additional

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penalties, up to and including a permanent forfeiture of Certified Irrigated Acres, and/or a permanent forfeiture of all future Allocations, under the following circumstances: (1) previous violations of any Rule or Regulation, (2) multiple violations of these Rules and Regulations, (3) engaging in willful and wanton misconduct, or (4) certification by the record owner to the District of the non-irrigation status of certain Certified Irrigated Acres in order to opt-out of an Occupation Tax levied by the District, which status is later found to be false in whole or in part.

- 3-2.3.** Any Person who violates a cease and desist order issued by the District pursuant to NEB. REV. STAT. § 46- 707(h) may be subject to a civil penalty assessed pursuant to NEB. REV. STAT. § 46-745.

CHAPTER 4 – ACCESS

RULE 4-1. Entry Upon Land

- 4-1.1.** The LRNRD or authorized designee shall have the power and authority to enter upon the land, after notification to the Landowner or Operator, for any and all reasons relative to the administration of the provisions of these Rules and Regulations and the Ground Water Management and Protection Act. This entry shall not be considered trespass.
- 4-1.2.** Notice for entry upon land may be accomplished by rule, oral communication, regular mail, certified mail, or personal service.

RULE 4-2. Notice

- 4-2.1.** The LRNRD hereby notifies all Landowners and Operators of its intent to enter onto property for the following purposes relating to flow meter devices or other similar devices used to measure the quantity of Ground Water pumped for irrigation, municipal, commercial and industrial purposes (“measuring devices”), including measuring devices owned by Landowners, Operators, or the District, to: (1) perform or verify the installation of measuring devices, (2) read or verify the readings of all installed measuring devices, (3) installation of cable seals to prevent the removal of measuring devices, or (4) any other inspection, repair, or installation required to ensure proper use and maintenance of measuring devices.
- 4-2.2.** The LRNRD hereby notifies all Landowners and Operators of its intent to enter onto the property for the purpose of conducting static water well measurements and for the purpose of any inspections, measurements, evaluations, or sample collection undertaken pursuant to state law.
- 4-2.3.** If the District determines a District-owned flow meter should be installed on a well required to have a mechanical flow meter under Rule 5-4.1, the District shall provide written notice to the Landowner or Operator of the District’s intent to install a District-owned flow meter unless the Regulated Water Well or Inactive Status Well is included in an installation plan or other guidance document approved by the Board and published on the LRNRD website.

CHAPTER 5 – GENERAL MANAGEMENT

RULE 5-1. Moratorium

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- 5-1.1** The LRNRD hereby closes the entire Management Area to the issuance of new permits for Regulated Water Wells except as provided in Rules 5-1.2, 5-1.3, and 5-1.4.
- 5-1.2.** The LRNRD hereby closes the entire Management Area to the initiation or expansion of Consumptive Uses with the exception of (1) those uses that pertain to human health, safety, and welfare, or range livestock, (2) those uses for which an Offset has been or will be provided as described in Rules 6-3 and 6-4 below, or (3) those uses for which an Offset will be provided to compensate for Ground Water that will be withdrawn pursuant a Variance granted under Rule 5-7.
- 5-1.3.** Water Wells for new or expanded municipal, commercial, and industrial uses are governed by Rule 6-3 below.
- 5-1.4.** Replacement Water Wells and Range Livestock Wells are not subject to the moratoriums.
- 5-1.5.** Beginning on January 1, 2005, no Water Well may be used to irrigate any acre that was not irrigated with Ground Water at some time between January 1, 1999, and December 31, 2004, unless such Water Well is constructed or used pursuant to a Variance granted by the District.

RULE 5-2. Permit to Construct a Water Well

- 5-2.1.** Except as provided in Rule 5-2.2, any Person who intends to construct a regulated Water Well on land in the Management Area that he or she owns or controls shall, before commencing construction, obtain and complete a permit application from the LRNRD. Within thirty (30) days after the permit application is properly prepared and filed, the LRNRD shall either issue the approved permit (with or without conditions) or deny the permit application. An incomplete or defective permit application shall be returned for correction. If correction is not made within sixty (60) days, the permit application shall be canceled.
- 5-2.2.** Exceptions. No permit shall be required for:
- (a) Test holes;
 - (b) Dewatering wells with an intended use of ninety (90) days or less; or
 - (c) A single Water Well designed and constructed to pump fifty (50) gallons per minute or less.
- 5-2.3.** Applications for a permit to construct a Water Well that require consideration of a Variance request shall not be deemed as properly filed and complete until such time as the Board has acted to approve the Variance request.
- 5-2.4.** A Person shall apply for a permit before he or she modifies a Water Well, for which a permit was not required when the Water Well was constructed, into one for which a permit would otherwise be required.
- 5-2.5.** The permit application shall be accompanied by a \$50.00 filing fee payable to the LRNRD and shall contain:
- (a) The name and post office address of the well owner;

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- (b) The nature of the proposed use;
- (c) The intended location of the proposed Water Well or other means of obtaining Ground Water;
- (d) The intended size, type and description of the proposed Water Well and the estimated depth, if known;
- (e) The estimated capacity in gallons per minute;
- (f) The acreage and location by legal description of the land involved if the intended use is for irrigation;
- (g) A description of the proposed use, if other than irrigation;
- (h) The registration number of the Water Well being replaced, if applicable;
- (i) The certified use of the Water Well being replaced, if applicable;
- (j) The Historic Consumptive Use of the Water Well being replaced, if applicable; and
- (k) Such other information as the District may require.

5-2.6. Any Person who fails to obtain a permit before construction is commenced shall make application for a Late Permit on forms provided by the LRNRD. The application for a Late Permit shall be accompanied by a \$250.00 fee payable to the LRNRD.

5-2.7. The application for a permit shall be denied if (a) the location or operation of the proposed Water Well or other work would conflict with any regulations or controls adopted by the LRNRD; (b) the proposed use would not be a beneficial use; or (c) in the case of a Late Permit only, that the applicant did not act in good faith in failing to obtain a timely permit.

5-2.8. No refund of any application fees shall be made regardless of whether the permit is issued, canceled, or denied.

5-2.9. The issuance, by the LRNRD, of a permit or the registration of a Water Well with the DNR shall not vest in any Person the right to violate any LRNRD rule, regulation, or control in effect on the date of issuance of the permit or the registration of the Water Well, or to violate any rule, regulation, or control properly adopted after such date.

5-2.10. The applicant shall commence construction as soon as possible after the date of approval and shall complete construction and equip the Water Well prior to the date specified in the conditions of approval, which shall not be more than one (1) year from the date of approval, unless it is clearly demonstrated in the application that one (1) year is an insufficient period of time for such construction. Failure to complete the project under the terms of the permit may result in the withdrawal of the permit by the LRNRD.

RULE 5-3. Well Spacing

5-3.1. Except as provided in Rule 5-3.2, no irrigation Water Well shall be constructed upon any land in this District within six hundred (600) feet of any registered irrigation Water Well and no existing non-irrigation Water Well within six hundred (600) feet of any registered irrigation Water Well shall be used for irrigation purposes. Such spacing requirement shall not apply to (a) any Water Well used to irrigate two acres or less or (b) any Replacement Water Well used for irrigation if constructed within fifty (50) feet of the irrigation Water Well being replaced and if the Water Well being replaced was constructed prior to September 20, 1957, and is less than six hundred (600) feet from a registered irrigation Water Well.

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- 5-3.2.** No regulated irrigation, industrial, or public water supply well shall be constructed upon any land in this District within one thousand (1,000) feet of any registered regulated industrial or public water supply well of different ownership.
- 5-3.3.** Except as provided in Rule 5-3.1, a Replacement Water Well must be constructed to provide water for the same purpose as the original Water Well and be operated in accordance with any applicable Rules and Regulations of the District and with any applicable permit from DNR. If the purpose of the Replacement Water Well is for irrigation, the Replacement Water Well must deliver water to the same tract of land served by the original Water Well and:
- (a) Replace a decommissioned Water Well within one hundred eighty (180) days after the decommissioning of the original Water Well;
 - (b) Replace a Water Well that has not been decommissioned but will not be used after construction of the Replacement Water Well and the original Water Well will be decommissioned within one hundred eighty (180) days after such construction, except that in the case of a municipal Water Well, the original municipal Water Well may be used after construction of the Replacement Water Well but shall be decommissioned within one year after completion of the Replacement Water Well; or
 - (c) Be used simultaneously with the original Water Well but the original Water Well will be modified and equipped within one hundred eighty (180) days after such construction of the Replacement Water Well to pump fifty (50) gallons per minute or less and will be used only for range livestock, monitoring, observation, or any other non- consumptive or de minimis use and approved by the District; and
 - (d) Will not be used to provide water for a use not certified for the original Water Well.

5-3.4. Approval of Replacement Water Well.

- 5-3.4.1.** A Replacement Water Well meeting the criteria in Rule 5-3.3 and constructed within one thousand three hundred twenty (1,320) feet of the Water Well that it is replacing may be constructed by a Landowner or Operator without obtaining a Variance under Rule 5-7, except that a Landowner or Operator must obtain a Variance under Rule 5-7 if construction of such Replacement Water Well will result in more Ground Water consumption than the Water Well that it is replacing.
- 5-3.4.2.** A Landowner or Operator must obtain a Variance under Rule 5-7 to construct a Replacement Water Well further than one thousand three hundred twenty (1,320) feet from the Water Well that it is replacing. Such Replacement Water Well must meet the criteria in Rule 5-3.3.

RULE 5-4. Flow Meters

- 5-4.1.** A mechanical flow meter meeting the accuracy specifications established in Rule 5-4.2 shall be installed on all Regulated Water Wells and all Inactive Status Wells which the District has not approved as inoperable through removal of the pump and column or use of a cable seal, weld, or other method. Persons seeking to use an Inactive Status Well must notify the LRNRD of the Water Well's status change and update the status of the Water Well in the well registration records of DNR prior to returning the Inactive Status Well to service.

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- 5-4.1.1.** No Regulated Water Well shall be operated within the District without a properly installed and operational flow meter.
- 5-4.1.2.** The penalty for the first violation of Rule 5-4.1.1 shall be the loss of the base Allocation for the following year, a prohibition on pumping from the Water Well at issue until fitted with a properly installed and operational flow meter, and such other penalties as the Board may deem appropriate. Penalties for subsequent violations of Rule 5-4.1.1 may be issued pursuant to Rule 3-2.2.
- 5-4.2.** All flow meters shall be tested for accuracy using recognized industry testing methods and certified by the manufacturer according to those standards. At any rate of flow within the normal flow limits, the flow meter shall register not less than ninety-eight (98) percent nor more than one hundred two (102) percent of the water actually passing through the flow meter. All flow meters shall be mechanical, have a register or totalizer, and shall read in U.S. gallons, acre-feet, or acre-inches.
- 5-4.3.** Installation. Unless the District has installed a District-owned flow meter under Rule 5-4.11, the Landowner or Operator shall, on forms provided by the LRNRD, report the location, by legal description, and certify the proper installation of flow meters. The LRNRD may, at a time of its own choosing, verify the location and proper installation of flow meters. The proper installation of a flow meter is such that it meets the manufacturer's specifications and/or more restrictive specifications developed by the LRNRD as reflected in this Rule.
- 5-4.3.1.** Whenever a manufacturer or dealer instructions and/or specifications are more restrictive, they shall govern.
- 5-4.3.2.** In no case may a flow meter be installed with less than five (5) unobstructed pipe diameters upstream of the flow meter or less than one (1) unobstructed pipe diameter downstream of the flow meter.
- 5-4.3.3.** If the flow meter is installed downstream of a mainline check valve, there must be at least ten (10) pipe diameters upstream of the flow meter. If there are not at least ten (10) pipe diameters upstream of the flow meter, straightening vanes must be installed.
- 5-4.3.4.** Flow meters must be located so as to prevent damage to the flow meter from excessive vibration.
- 5-4.3.5.** Flow meters must be installed so that the removal of the flow meter for service or maintenance can be performed with the use of normal tools and does not require excessive or unusual removal of hardware or other appurtenances.
- 5-4.3.6.** The LRNRD may establish a method by which the installed flow meter is tagged, sealed, marked, or otherwise protected from tampering.
- 5-4.4.** Improperly Installed Flow Meters. The installation of flow meters that do not meet the manufacturers' or LRNRD standards must be corrected. Except as provided in Rule 5-4.11.1, if

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the LRNRD determines that a flow meter has been improperly installed, it will send written notice to the well owner or Operator requesting correction within fourteen (14) days. Failure to provide for proper installation, or to correct a problem identified by the LRNRD in writing, may result in the imposition of the penalties as described in Rules 5-4.1.2.

- 5-4.5. Inoperative Flow Meters.** Well owners and/or Operators shall notify the LRNRD of an inoperative flow meter within one (1) working day from the time the defect is noted. The LRNRD shall repair or temporarily replace the inoperative flow meter. The well owner will be charged for service costs related to repair of an inoperative flow meter unless the flow meter is owned by the District. Failure to report inoperative flow meters shall result in the imposition of penalties as described in Rules 5-4.1.2.
- 5-4.6. Tampering with an Installed Flow Meter.** Well owners and/or Operators who are found to have tampered with a flow meter so as to affect the accuracy or true use of that flow meter shall be subject to the penalties described in Rule 5-4.1.2.
- 5-4.7. Removing a Cable Seal or Removing a Flow Meter.** A well owner or Operator, or agents thereof, shall obtain approval from the District prior to removing a cable seal and/or removing a flow meter. Removal of a cable seal or flow meter without approval by the District staff shall result in the imposition of the penalties described in Rule 5-4.1.2.
- 5-4.8. Service.** Except as provided in Rule 5-4.11, it is the responsibility of the well owner or Operator to provide for service and to maintain the flow meter according to either the manufacturer's standards or more restrictive standards developed by the LRNRD. The well owner or Operator may grant permission for this service to be provided by the LRNRD, at a cost to the well owner or Operator. A form, provided by the LRNRD, shall authorize this service and the LRNRD may enter onto property to provide this service. This service shall be provided in the off-season and will not interfere with the normal operation of the flow meter or the Water Well.
- 5-4.9.** The LRNRD may establish a program to randomly inspect the serviceability and to verify use of a flow meter. The LRNRD may correct discrepancies noted at the time of the inspection. If discrepancies require the repair of a flow meter, the LRNRD shall perform repairs to District-owned flow meters and no cost shall be assessed to the well owner or Operator unless repair is required due to intentional or negligent damage by the well owner or Operator. The LRNRD may also perform repairs to other flow meters, at a cost to the well owner or Operator, with the prior permission of the well owner or Operator. The penalties described in Rule 5-4.1.2 may be imposed if the inspections performed pursuant to this Rule reveal the violation of any of the flow meter requirements set forth in Rule 5-4.
- 5-4.10.** Any Water Well that does not have the required flow meter shall be considered an "Illegal Water Well" as defined in Rule 2-23.
- 5-4.11. District-Owned Flow Meters.** The District is authorized to replace flow meters owned by a Landowner or Operator and installed on a well required to have a mechanical flow meter under Rule 5-4.1 with a District-owned flow meter. The Board may approve an installation plan or other guidance document that establishes the timeline and criteria for flow meter replacement.

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5-4.11.1. For District-owned flow meters, the District shall be responsible for performing the following: (a) installation, (b) correction of installation that does not meet the manufacturers' or LRNRD's standards, and (c) service and maintenance according to either the manufacturer's standards or more restrictive standards developed by the LRNRD.

5-4.11.2. If, in the course of installation of a District-owned flow meter, the District discovers modifications are required to the underlying system, the Landowner or Operator shall be responsible for the cost and performance of such modifications.

5-4.12. The District owns all right, title, and interest in data collected from District-owned flow meters.

RULE 5-5. Reports

5-5.1. Owners and Operators of a Regulated Water Well used for irrigation purposes shall allow District staff to determine from the flow meters, by January 15 of each year, the total water withdrawn from that Water Well since the last reading.

5-5.1.1. If the owner and/or Operator of a Regulated Water Well used for irrigation purposes disputes the amount of total water withdrawn from such Water Well during the year as read by District staff, the owner and/or Operator shall have until April 1 of the following year to file an objection with the District.

5-5.2. Failure to allow the District staff or authorized designee to inspect and/or read any flow meter shall result in the loss of Allocation for the current crop year and/or the next crop year.

5-5.3. Each owner or Operator of a Regulated Water Well not used for irrigation purposes, shall report on forms provided by the District, by January 15 of each year, the total amount of water withdrawn from that Water Well during the preceding calendar year and the nature of the water use.

5-5.4. In order to ensure compliance with the Republican River Compact Accounting procedures, additional information may be required from Landowners and Operators.

RULE 5-6. Certification of Acres and Non-Irrigation Uses

5-6.1. Any Certified Irrigated Acres were certified by the District upon application by the Landowner or Operator of a Regulated Water Well on or before January 1, 2005 on forms certifying (a) the well registration number for that well, (b) the number and location of all acres irrigated at least once by that well between January 1, 1999, and December 31, 2004, and (c) the maximum number of acres irrigated by that well in any one (1) year within that time period. Such certification was on forms provided by the LRNRD, accompanied by applicable records from the U.S.D.A. Farm Service Agency and/or the County Assessor, and such other information as requested by the LRNRD to verify the information certified.

5-6.1.1. Once acres have been certified by the District as Certified Irrigated Acres, such certification shall attach to the land upon which such acres are irrigated, regardless of whether or not the Water Well used to irrigate such acres is located on such land.

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- 5-6.1.2.** The District may require certification of acres as part of digitalizing acres by the District or the County Assessor.
- 5-6.2.** After December 31, 2004, no Regulated Water Well used for irrigation purposes shall be operated unless its acres and use were certified pursuant to Rule 5-6.
- 5-6.3.** A Landowner or Operator of a Regulated Water Well must request approval from the District prior to implementing any change in the number, use, or location of Certified Irrigated Acres. Such requests shall be subject to the procedures described in Rule 5-7.
- 5-6.4.** On or before December 31, 2008, all Certified Irrigated Acres were classified as either “irrigated” or “irrigable” by the County Assessor. Any acres that are thereafter classified as anything other than “irrigated” or “irrigable” by the County Assessor lost their status as Certified Irrigated Acres and suffered a forfeiture of any existing Allocation and remain ineligible for any future Allocation of Ground Water for irrigation purposes. Notwithstanding anything to the contrary stated in Rule 5-6, the District may grant a Variance pursuant to Rule 5-7. However, it is the responsibility of the Landowner and/or Operator to ensure that the County Assessor has the information necessary to classify the land as either irrigated or irrigable and the correct number and location of acres. The District may review the County Assessors’ records on a yearly basis to compare the information from such Assessor with the information contained in the District’s records regarding the number and location of Certified Irrigated Acres. The District may conduct this review using digitalization contemplated under Rule 5-6.1.2. However, this review will not relieve the Landowner or Operator of the responsibility imposed by Rule 5-6.
- 5-6.5.** If a Landowner or Operator of a Regulated Water Well used for irrigation purposes fails to certify the information required by Rule 5-6 for a Water Well which has been constructed prior to July 26, 2004, then the Water Well shall be deemed an Illegal Water Well.
- 5-6.6.** The District shall not approve any acres as Certified Irrigated Acres if such acres are irrigated from an Illegal Water Well and such acres shall not receive any future Allocation of Ground Water unless the situation which caused the Water Well to become illegal has been corrected and the District approves the acres as Certified Irrigated Acres.
- 5-6.7.** The District may approve a change in the location or use of Certified Irrigated Acres when the owner or Operator of a Regulated Water Well changes the use to a different delivery system or changes the location of the current delivery system. New acres may be certified as Certified Irrigated Acres if those acres are substituted for previously Certified Irrigated Acres and the location of such acres are in an area contiguous to the previously Certified Irrigated Acres. The number of acres that are substituted must be equal to the number of newly certified acres to qualify for approval by the District.
- 5-6.8.** Following notice and a hearing, the Board may revoke and/or cancel any previously approved certification of irrigated acres or any previously granted Allocation to Regulated Water Well for which false or misleading information was used to obtain the certification required by these Rules and Regulations, or for which false or misleading information was provided under Rules 5 or 6 of these Rules and Regulations.

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- 5-6.9.** After July 18, 2009, the Board will not consider or approve any future requests to certify irrigated acres, unless a Variance has been applied for and approved by the Board.

RULE 5-7. Variances

- 5-7.1.** The Board may grant Variances from the strict application of these Rules and Regulations upon a showing of good cause.
- 5-7.1.1.** All requests for a Variance shall be made on forms provided by the LRNRD and be accompanied by a \$200.00 non-refundable filing fee payable to the LRNRD.
- 5-7.1.2.** Good cause is shown when there is a reasonable justification for granting a Variance and the Board reasonably and in good faith believes will provide an economic, environmental, social, or public health and safety benefit that is equal to or greater than the benefit resulting from the prohibition from which a Variance is sought. The District may consider, but is not limited to, the percent of development, static water levels, depletion factor, specially designated areas, and any previous violation(s) of the Rules and Regulations or the Act, and may request additional information in order to determine whether to grant a Variance request.
- 5-7.1.3.** For requests requiring approval under Rule 5-7.3, the Board shall consider the Variance request at a public meeting. The Person submitting the Variance request, or his or her representative, shall be afforded an opportunity to testify at any public meeting where the Variance request is considered, or may submit written testimony discussing the criteria in Rule 5-7.1.2 in lieu of in-person testimony if provided to the District at least twenty-four (24) hours in advance of the meeting.
- 5-7.2.** The Board authorizes the Staff Committee to approve (a) Variance requests under Rule 5-3.4.2 if the Replacement Water Well and the Water Well it is replacing are located on the same tract of land, (b) Variance requests for contiguous acre trades, or (c) other Variance requests affecting less than ten (10) acres of land. The Staff Committee may only approve a Variance request under this Rule if modeling tools used in the ordinary course of business by the District show the request will not have a negative impact on stream flow depletion in the District. The Board also authorizes the Staff Committee to approve a request to change the location or use of Certified Irrigated Acres if (a) the land proposed for change is either in the same Farm Services Agency tract number or a title search shows the change is to land contiguous or adjoining the Certified Irrigated Acres, (b) the Landowner has provided a title search for the tracts in question, tax assessor records, an aerial map depicting the traded acre locations and associated Regulated Water Wells, and the registration numbers for any Regulated Water Wells used for irrigation purposes, (c) the trade of acres maintains or improves water efficiency, and (d) if the change involves gravity irrigation, the Certified Irrigated Acres being converted to dryland are at the high end of the field and incapable of being gravity irrigated. There must be unanimous consent amongst the Staff Committee that a request should be approved. A representative of the Staff Committee shall provide a report at the next regular Board meeting of any requests approved under this Rule.
- 5-7.3.** For Variance requests and requests to change the location or use of Certified Irrigated Acres that

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are not eligible for approval or denied under Rule 5-7.2, the Board authorizes the Staff Committee to make an initial determination on whether to grant the request using any information available to the District and make a recommendation to the Board. In acting upon such requests, the Board may approve or deny the request at its discretion and may impose conditions upon which a request may be granted. The Board may issue a written decision concerning the request.

- 5-7.4.** A Person receiving approval for a request under Rule 5-7.2 or 5-7.3 must complete the action(s) required to fulfill the request within twelve (12) months from the date the request is approved and shall notify the District when such action(s) are completed.
- 5-7.5.** No Variance request will be approved for a period of one (1) year from the date of denial of a Variance request for the same well or real estate.

RULE 5-8. Republican River Compact Compliance

- 5-8.1.** Compact Call Year Determination. As provided in the IMP, no later than November 15 of each year, DNR shall inform the District of a potential designation of a Compact Call Year for the upcoming irrigation season. Upon receipt of such determination, the District shall provide notice of such designation to irrigators and other interested parties. The Board shall consider and adopt any additional controls and actions necessary to meet the District's proportional responsibility for maintaining Nebraska's compliance with the Republican River Compact.
- 5-8.2.** Additional controls and actions may consist of, but are not limited to, Incentive Programs, regulations (inclusive of curtailments of Ground Water pumping in the Rapid Response Area), augmentation, and other relevant activity.
- 5-8.3.** Municipal and other public water system and industrial Allocations shall be exempt from Compact Call Year Controls.
- 5-8.4.** Within the Rapid Response Area, the Allocation during a Compact Call Year shall be set at the maximum allowable that would not cause the District's depletions to streamflow to exceed the District's allowable Ground Water depletions after taking into consideration other actions and controls that the District would implement. As set forth in the IMP, DNR will perform all calculations relating to the District's forecasted allowable Ground Water depletions, forecasted depletions, and potential yield from implementing actions and controls.

RULE 5-9. Incentive Programs

- 5-9.1.** The District may establish and implement financial or other Incentive Programs as permitted under the Act. As a condition for participation in an Incentive Program, the District may require water users or landowners to enter into and perform such agreements or covenants concerning the use of land or water as are necessary to produce the benefits for which the Incentive Program is established and shall further condition participation upon satisfaction of the requirements of NEB. REV. STAT. § 46-739.01 (which provides for a title report and approval of lien holder).
- 5-9.2.** Any lands enrolled in an Incentive Program of any kind, whether federal, state, or local, will not be eligible to receive an Allocation during such enrollment period. Participation in an Incentive

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Program, however, will not result in the permanent loss of an Allocation unless the status of the acres involved are reclassified by the County Assessor from irrigated or irrigable to non-irrigated. Upon completion of any enrollment period required by the Incentive Program, any Certified Irrigated Acres that were enrolled in such program will be re-eligible for an Allocation, prorated to the number of years remaining in the Allocation Period. During the time that any lands are enrolled in an Incentive Program, such lands will not be entitled to any Carry-Forward for subsequent Allocation Periods.

- 5-9.3.** Any participant in a federally funded Incentive Program shall not be eligible to participate in any Incentive Program funded by the District or any other program funded by the District where payments are made to landowners who have Certified Irrigated Acres in a Rapid Response Area.

CHAPTER 6 – MANAGEMENT OF USES

RULE 6-1. Allocation

- 6-1.1.** The use of Ground Water from all Regulated Water Wells shall be allocated by the LRNRD. Allocations will be set after considering the following: (1) the relationship between Water Wells and surface waters and the impact of well usage on stream flow; (2) whether Ground Water levels are declining; and (3) such other factors as the Board determines may be relevant to the appropriate amount of water to be withdrawn.
- 6-1.2. General Provisions:**
- 6-1.2.1. Allocation.** Forty-five (45) acre-inches for the Allocation Period.
- 6-1.2.2. Base Allocation.** Nine (9) acre-inches per year for all Regulated Water Wells used for irrigating Certified Irrigated Acres.
- 6-1.2.3. Maximum Allocation.** Thirteen (13) inches per effective Certified Irrigated Acre in all years designated as a Compact Call Year.
- 6-1.2.4. Allocation Period.** Five (5) years; beginning on January 1, 2023 and ending on December 31, 2027, and continuing for every five years thereafter.
- 6-1.2.5. Base Allocation Year.** January 1 to December 31.
- 6-1.2.6.** It may be necessary to adjust the Base Allocation, as defined in Rule 6-1.2.2., within the five-year Allocation Period in order to comply with the Integrated Management Plan. Such adjustment will become effective only after the Board holds a public hearing.
- 6-1.2.7.** For irrigation purposes, if at the end of the Allocation Period, a Landowner or Operator has consumed less than his or her Allocation, he or she may carry the reserve or unused portion forward to the subsequent Allocation Period (the Carry-Forward), not to exceed the annual Base Allocation. Any Carry-Forward must be used for the same Certified Irrigated Acres for which the water was originally allocated.

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6-1.2.8. Pursuant to NEB. REV. STAT. § 46-739, the LRNRD may establish different provisions for restriction of Water Wells that were constructed after January 1, 2001.

6-1.3. Commingled Acres.

6-1.3.1. It is the intent of the Board to promote the conservation of water by discouraging the expansion of irrigated acres within the District. The District therefore encourages Commingling and discourages the transfer of surface water for irrigation purposes unless such transfer results in other Commingled Acres within the District.

6-1.3.2. If a Landowner or Operator engages in Commingling during any irrigation season, such Landowner or Operator shall retain the unused portion of the base Allocation of Ground Water for that irrigation season and may Carry-Forward such unused portion to subsequent irrigation seasons within the Allocation Period.

6-1.3.1.1. This subsection shall also apply to surface water leased or purchased by either the District or DNR.

6-1.3.3. If a Landowner or Operator transfers surface water from Commingled Acres to another tract of land for irrigation purposes, such Landowner or Operator shall notify the District in writing at the time of the transfer. Such transfer shall result in the forfeiture of the entire base Allocation of Ground Water for the Commingled Acres for each year that such surface water transfer remains in force unless the transfer causes another tract of land within the District to become Commingled.

6-1.3.4. The failure of the Landowner or Operator to notify the District of the transfer of surface water may result in the forfeiture of future Allocations of Ground Water on the Commingled Acres, up to and including a permanent forfeiture of Certified Irrigated Acres.

6-1.3.5. The District may at some future date, in order to promote the conservation of water, provide an incentive to Landowners or Operators to integrate the surface water and Ground Water systems into a single more efficient center pivot irrigation system.

6-1.3.6. If a Landowner or Operator loses the right to use surface water for irrigation purposes because of non-use, such Landowner or Operator shall not forfeit the base Allocation of Ground Water.

6-1.4. Penalties for overuse of Ground Water are as follows:

6-1.4.1. If at the end of an Allocation Period, subject to the requirement of Rule 6-1.5, a Person has exceeded his or her Allocation, the Allocation for the next Allocation Period shall be reduced. For excess use less than or equal to three (3) acre-inches above the Allocation, the next Allocation shall be reduced by an amount of acre-inches equal to that of the excess use. For excess use greater than three (3) acre-inches above the Allocation, the next Allocation shall be reduced by three (3) acre-inches plus an amount of acre-inches equal to two (2) times that of the excess use beyond three (3) acre-inches.

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- 6-1.4.2.** Any Person who uses more than the Maximum Allocation of Ground Water on any effective Certified Irrigated Acre shall have any remaining Allocation reduced by three (3) times any amount used over such Maximum Allocation. If the penalty exceeds the remaining Allocation, any remaining Allocation shall be reduced and the unsatisfied portion of the penalty shall be deducted from the Allocation in the next Allocation Period.
- 6-1.5.** A Landowner or Operator must have a positive balance in his or her Allocation account before using water in any year of an Allocation Period. The LRNRD shall notify Landowners and/or Operators anytime the balance of their Allocation goes below zero.
- 6-1.6.** Any Landowner with Certified Irrigated Acres participating in the federal Conservation Reserve Program (“CRP”), Environmental Quality Incentives Program (“EQIP”), or similar programs, or who certifies to the District the non-irrigation status of such acres pursuant to NEB. REV. STAT. § 2-3226.05(2), shall not receive an Allocation during the period of time that such Certified Irrigated Acres are in a non-irrigation status. At such time that Landowners of Certified Irrigated Acres terminate any federal Conservation Reserve Program and recommence irrigating the Certified Irrigated Acres, such Certified Irrigated Acres will become eligible for an Allocation, on a prorate basis for the remaining years of the Allocation Period; provided however, that those acres must be classified as irrigated or irrigable land by the County Assessor.
- 6-1.7.** The LRNRD may review any Allocation or reduction control imposed and shall adjust the Allocation or reduction to accommodate or otherwise reflect findings of such review consistent with the integrated management objectives. Such review shall consider more accurate data or information that was not available at the time of the Allocation or reduction order, designation of a Water Short Year and such other factors as the LRNRD deems appropriate.
- 6-1.8.** The LRNRD may institute formal adjudicatory proceedings or take any other legal action authorized or permitted by law to prohibit further withdrawal of Ground Water from any Regulated Water Well whenever a Person has exhausted his or her Allocation during or before the end of any Allocation Period or has in any other way violated the amount, limitations, or conditions of his or her Allocation or violated any other rules of the LRNRD. In the event of such action, no Ground Water may be withdrawn until the Person has adhered to LRNRD Rules and Regulations.

RULE 6-2. Pooling Arrangements or Pooling Agreements

- 6-2.1.** Any Landowner who has Certified Irrigated Acres may elect to enter into a Pooling Arrangement or Pooling Agreement. Any Pooling Arrangement or Pooling Agreement shall be submitted to the District on or before June 1 of any irrigation season. No Pooling Arrangement or Pooling Agreement shall be utilized until District approval has been obtained. Any amendments or revisions to a Pooling Arrangement or Pooling Agreement made after June 1 will not be considered by the District until the next irrigation season.
- 6-2.2.** The Application for pooling shall include the following information:
- (a) The name of all Persons involved, including any tenants;
 - (b) A map or maps from the Natural Resources Conservation Service or the District showing the location of all Certified Irrigated Acres and Water Wells, and identification of all Water

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- Wells, including the well registration number and the serial number of each flow meter;
- (c) Proof of ownership from Farm Service Agency, title company, County Assessor or other recognized source;
- (d) The legal description of each tract of land included in Pooling Arrangement or Pooling Agreement;
- (e) Notarized signatures of all Persons involved, including tenants.

- 6-2.3.** The Allocation for Certified Irrigated Acres identified in any Pooling Arrangement or Pooling Agreement (“Pooling Allocation”) shall be calculated by multiplying the total Certified Irrigated Acres identified by the number of acre-inches of permitted Ground Water use. The Pooling Allocation is subject to the limits on Ground Water use provided in Rule 6-1.2. Violation of Rule 6-1.2. will subject the Person(s) in the Pooling Arrangement or Pooling Agreement to the penalties provided in Rule 6-1.4.
- 6-2.4.** The Board, in its sole discretion, may deny any application for approval of a Pooling Agreement or Pooling Arrangement.
- 6-2.5.** Tracts of land which may be pooled shall be located in one county; provided, however, if a Person or Persons owning such land in one county desires to pool tracts in more than that one county, such tracts shall be located in an adjoining or contiguous county or counties. Pooling Arrangement or Pooling Agreements which do not comply with this Rule shall be denied.
- 6-2.6.** A Pooling Arrangement or Pooling Agreement shall remain in effect until such arrangement or agreement is terminated. Any Person who has entered into a Pooling Arrangement or Pooling Agreement may terminate such arrangement or agreement by notifying any other parties and the District, in writing prior to May 1 of any irrigation season.

RULE 6-3. Municipal Use and Accounting

- 6-3.1.** The District, pursuant to NEB. REV. STAT. § 46-740, adopts the following rules regarding municipal use and accounting.
- 6-3.2.** The District will calculate a Baseline of Municipal Use for each municipality based on Historic Consumptive Use data for an appropriate interval. Consumptive Use will be determined from Ground Water pumping volumes and, where applicable, wastewater discharge volumes, and converted to a per capita volume. The baseline per capita volume, plus the annual population growth estimated by the Nebraska Department of Economic Development and/or U.S. Census Bureau will be used to determine annual increases and decreases in Consumptive Uses. These changes in Consumptive Use will be tracked annually for each municipality through a reporting system administered by the District.
- 6-3.3.** Once each five (5) years, the District will re-calculate the per capita Consumptive Use based upon similar, but updated, data described in Rule 6-3.2 and make any necessary adjustments to their per capita Offset requirements.
- 6-3.4.** Each year the municipality shall be responsible for reporting to the District any Ground Water use that exceeds the amount authorized by a permit that was issued pursuant to the Municipal and

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Rural Domestic Ground Water Transfers Permit Act and any new or expanded single commercial/industrial Consumptive Use if that new or expanded Consumptive Use is greater than twenty-five (25) million gallons per year.

- 6-3.5.** Each year, the District will evaluate the potential need to Offset increases from the Baseline of Municipal Use as estimated by population growth. This evaluation may consider the amount, timing, and location of the increased Consumptive Use as well as other considerations deemed appropriated by the District. In the event that the municipality's water use exceeds the amount of Ground Water authorized by a permit that was issued pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act, or the increase is related to any new or expanded single commercial/industrial Consumptive Uses of more than twenty-five (25) million gallons per year, the District will consult with the municipality or commercial/industrial user to evaluate the potential need for an appropriate Offset.
- 6-3.6.** Any permanent reduction in Consumptive Use of water associated with municipal growth including governmental, industrial, and commercial growth (e.g., by taking irrigated acres out of production), between July 14, 2006, and January 1, 2026, shall accrue to the District's benefit to be used in whole or in part to Offset increased municipal Consumptive Use within the District. Acres taken out of production must be decertified and shall accrue to the District's benefit.

RULE 6-4. Commercial or Industrial Use and Accounting

- 6-4.1.** The District will calculate Baseline of Commercial and Industrial Use for each Commercial or Industrial Water User in the District based on Historic Consumptive Use data for an appropriate interval. Consumptive Use will be determined from Ground Water pumping volumes and, where applicable, wastewater discharge volumes. The baseline will be used to determine changes in Consumptive Use annually.
- 6-4.2.** Changes in Consumptive Use will be tracked for each commercial or industrial user annually through a reporting system administered by the District.
- 6-4.3.** If the new or expanded single commercial or industrial use is less than or equal to twenty-five (25) million gallons per year, the District will evaluate the potential need to Offset increases from the Baseline of Commercial or Industrial Use. This evaluation may consider the amount, timing, and location of the increased Consumptive Use as well as other considerations deemed appropriate by the District.
- 6-4.4.** If the new or expanded commercial or industrial use exceeds twenty-five (25) million gallons per year and they do not have a transfer permit, the user will be responsible for the Offset of all new or expanded Consumptive Uses. If the new or expanded commercial or industrial use has a transfer permit, the user is responsible for Offsetting all new or expanded uses above the amount granted in the industrial transfer permit.
- 6-4.5.** Any permanent reduction in Consumptive Use of water associated with a new commercial or industrial use of less than twenty-five million gallons (e.g., by taking irrigated acres out of production), between July 14, 2006, and January 1, 2026, shall accrue to the District's benefit to be used in whole or in part to Offset increased Consumptive Use within the District. Acres taken

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out of production must be decertified and transferred to the District's benefit.

RULE 6-5. Ground Water Transfer for Irrigation, Public Water Supplies, and Industrial Purposes

- 6-5.1. Transfers for Irrigation Purposes.** The LRNRD finds that the transfer of Ground Water off of the overlying land for irrigation purposes may contribute to conflicts between Ground Water users and surface water appropriators, and to disputes over the Republican River Compact. For those reasons, and except as provided in Rule 5-6.7, the LRNRD hereby closes all of the Management Area to the withdrawal and transfer of Ground Water off the overlying land or otherwise changing the location of use of Ground Water for irrigation purposes.
- 6-5.2. Transfers by Public Water Suppliers.** Pursuant to NEB. REV. STAT. §§ 46-739(k) and 46- 742, the District is required to allow the withdrawal and transport of Ground Water when a public water supplier providing water for municipal purposes receives a permit from DNR pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act. Except to the extent that a public water supplier has obtained a permit under the Municipal and Rural Domestic Ground Water Transfers Permit Act, the LRNRD hereby closes all of the Management Area to the withdrawal and transfer of Ground Water off of the overlying land or otherwise changing the location of use of Ground Water for municipal purposes. A public water supplier shall notify the District at the time that it files an application with DNR for a permit under the Municipal and Rural Domestic Ground Water Transfers Permit Act.
- 6-5.3. Transfers by Commercial and Industrial Water Users.** The District will allow Commercial and Industrial Water Users to transfer water pursuant to a permit granted by DNR, or pursuant to written notice filed with DNR, as provided for in the Industrial Ground Water Regulatory Act. Except to the extent that a Commercial or Industrial Water User has obtained a permit from DNR under the Industrial Ground Water Regulatory Act, the LRNRD hereby closes all of the Management Area to the withdrawal and transfer of Ground Water off of the overlying land or otherwise changing the location of use of Ground Water for commercial or industrial uses. A commercial or industrial water user shall notify the District at the time that it files an application with DNR for a permit under the Industrial Ground Water Regulatory Act.
- 6-5.4. DNR Review of Permit Applications.** Upon receipt of an application by a public water supplier seeking a permit under the Municipal and Rural Domestic Ground Water Transfers Permit Act, an application by a Commercial or Industrial Water User under the Industrial Ground Water Regulatory Act, or a Person seeking a permit to transfer Ground Water to another state, DNR is required by statute to consult with the District. As part of that consultation, the District shall provide DNR with whatever relevant information that it may have in its possession, including but not limited to, the following:
- 6-5.4.1.** The applicant's unmet Offset obligations, if any;
 - 6-5.4.2.** The amount of water in the applicant's Offset Account;
 - 6-5.4.3.** Whether the applicant will need to provide an Offset for the proposed water use in order to maintain compliance with the Republican River Compact; and

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- 6-5.4.4.** Whether the applicant will need to mitigate any adverse effects to surrounding Ground Water users or surface water appropriators.

CHAPTER 7 – IRRIGATION RUN-OFF

RULE 7-1. Inefficient or Improper Irrigation Run-Off

No Landowner or Operator shall operate an irrigation system in a manner that allows for Inefficient or Improper Irrigation Run-Off.

RULE 7-2. Enforcement of Prohibition on Inefficient or Improper Irrigation Run-Off

- 7-2.1.** When a complaint has been filed pursuant to Rule 3-1.2 alleging Inefficient or Improper Irrigation Run-Off, the District shall request an informal meeting at the problem site with the Person who filed the complaint (“complainant”), alleged violator, and representative(s) of the District for the purpose of seeking a solution to the problem by mutual agreement.
- 7-2.2.** If a mutual agreement cannot be reached pursuant to Rule 7-2.1, the District shall review the complaint for completeness and, if necessary, conduct an investigation for the purpose of determining the extent of the alleged violation and obtaining any additional information that may be reasonably necessary for the Board to determine whether a violation has occurred. If an investigation is conducted, an investigation report summarizing the investigation and any evidence gathered shall be attached to the complaint. The District shall also draft a schedule of compliance for resolving the inefficient or improper ground water irrigation run-off. The District shall provide the alleged violator with the complaint, any investigation report, and the schedule of compliance.
- 7-2.3.** Schedule of Compliance. If appropriate, a schedule of compliance shall include the identification and description of all proposed procedures or measures to prevent, control, or abate inefficient or improper ground water irrigation run-off and provide for the submission of a work order within ten (10) days of acceptance or approval of the plan. The schedule of compliance may include: limitation of water applied; construction of run-off collection and/or retention systems such as furrow dikes, reuse pits or dugouts; blocking of end rows; execution and performance of an agreement with his neighbor(s) in accordance with Rule 7-3, or any other provision that may be necessary to prevent, control, or abate inefficient or improper ground water irrigation run-off.
- 7-2.4.** The alleged violator shall be granted not less than ten (10) days from the date that said complaint, investigation report, and schedule of compliance is provided to him or her to respond to the District.
- 7-2.5.** The alleged violator may agree with and accept as true and correct the complaint and inspection report, consent to cease and desist from continuing or allowing the reoccurrence of such violation, and accept the schedule of compliance offered by the District. If the alleged violator proceeds under this Rule, he or she shall implement and abide by the terms of the schedule of compliance.
- 7-2.6.** The alleged violator may agree with and accept as true and correct the complaint and inspection report, consent to cease and desist from continuing or allowing the reoccurrence of such violation, and request to submit an amended schedule of compliance in accordance with Rule 7-2.3.

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- 7-2.6.1.** If the District compliance officer determines that the amended schedule of compliance is adequate and will prevent future non-compliance with Rule 7-1 within a reasonable time period, he or she shall approve the amended schedule of compliance. The alleged violator shall implement and abide by the terms of the amended schedule of compliance.
- 7-2.6.2.** If the District compliance officer determines the amended schedule of compliance would be inadequate to prevent future non-compliance with Rule 7-1 within a reasonable time period, he or she shall deny the amended schedule of compliance and draft a revised schedule of compliance indicating the additions or changes he or she deems necessary. The District shall inform the alleged violator of the denial within ten (10) days of receipt of the amended schedule of compliance. The alleged violator shall have ten (10) days to consent to the revised schedule of compliance or request a formal hearing. The revised schedule of compliance shall not be considered at such hearing unless the alleged violator consents to such a consideration. If the alleged violator consents to the revised schedule of compliance, the alleged violator shall implement and abide by the terms of the revised schedule of compliance.
- 7-2.7.** The alleged violator may reject the complaint or inspection report and request that a formal hearing be scheduled and conducted. The General Manager and/or the Chairman of the Board shall issue a notice of hearing in writing stating a date and time no less than ten days after the date of the alleged violator's response whereby the alleged violator may have a reasonable opportunity to be heard before the Board.
- 7-2.7.1.** If following a hearing the Board determines that there has been a violation of the District's Rules and Regulations, it shall adopt an order directing the alleged violator to immediately cease and desist from all activities determined by the Board to be violations, specifying any actions deemed necessary and appropriate. Said order shall be transmitted to the alleged violator through personal service or by certified or registered mail.
- 7-2.8.** Failure of an alleged violator to timely respond within the time frame identified pursuant to Rule 7-2.4, shall be treated as acceptance by the alleged violator of the complaint, inspection report, and schedule of compliance.

RULE 7-3. Inefficient or Improper Run-Off Agreement

- 7-3.1.** A Ground Water user whose irrigation run-off water is capable of being captured and utilized by another person in a manner which will prevent waste of such water, deterioration of surface water quality, and accumulation of water upon the land of any other person without his consent may have such water excluded from the definition of Inefficient or Improper Irrigation Run-Off by submitting to the District an agreement for approval that provides for such capture and utilization signed by all affected parties on forms provided by the District.
- 7-3.2.** When such agreement is approved by the District it will show the District's concurrence that the Ground Water user's irrigation runoff water is under adequate control.
- 7-3.3.** The agreement may be terminated at any time by either party or by the District whenever it

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determines that such agreement no longer prevents or controls Inefficient or Improper Irrigation Run-Off. If the District terminates the agreement, written notice shall be provided to all parties by the District.

CHAPTER 8 – SEVERABILITY

- 8-1.** If any Rule or Regulation or any part of any Rule or Regulation herein shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

CHAPTER 9 – CHEMIGATION

RULE 9-1. Authority

Pursuant to the authority provided in the Nebraska Chemigation Act, NEB. REV. STAT. §§ 46-1101 to 46-1148, the District hereby adopts, to the extent applicable to natural resources districts, Title 195 of the Nebraska Department of Environment and Energy – Rules and Regulations Pertaining to Chemigation (“Title 195”). A copy of Title 195 is attached hereto as Exhibit A and incorporated herein by reference. Any future amendments to Title 195 will not become effective as part of these rules unless specifically adopted by the District.

RULE 9-2. Supplements to Title 195

- 9-2.** The District hereby supplements Title 195 by adopting the following changes:
- 9-2.1.** Insert in Chapter 1 of Title 195: “002.04.02 The applicator is responsible for keeping a certification valid.”
 - 9-2.2.** Insert in Chapter 1 of Title 195: “002.06.01 The signature of the permit holder and the certified applicator(s) is required on all chemigation applications.”
 - 9-2.3.** Insert in Chapter 2 of Title 195: “006 If an inspection reveals noncompliance with the standards set forth in this Title, renewal shall be refused, suspended, or revoked until compliance is achieved, as determined by the District.”
 - 9-2.4.** Insert in Chapter 3 of Title 195: “006.05 The chemigation injector valve may be moved from site to site, provided there has been modifications made to the systems involved to accept a portable chemigation injector valve.”

RULE 9-3. Permit Fee Schedule

- 9-3.** The schedule for permit fees adopted pursuant to NEB. REV. STAT. § 46-1121 is as follows:
- 9-3.1.** Initial or new permit applications shall be accompanied by a \$75.00 filing fee payable to the LRNRD, \$5.00 of which will be remitted to the Department of Environment and Energy.

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- 9-3.2.** Special permit applications shall be accompanied by a \$75.00 filing fee payable to the LRNRD, \$5.00 of which will be remitted to the Department of Environment and Energy.
- 9-3.3.** Renewal applications, either for a permit or special permit, shall be accompanied by a \$25.00 filing fee payable to the LRNRD, \$2.00 of which will be remitted to the Department of Environment and Energy.
- 9-3.4.** Emergency permit applications shall be accompanied by a \$500.00 filing fee payable to the LRNRD.

RULE 9-4. Inspections

- 9-4.** Pursuant to NEB. REV. STAT. § 46-1124, the District will make area wide selective and periodic inspections of non-permitted or permitted irrigation systems to ensure compliance with the Nebraska Chemigation Act and Title 195. The District will also investigate complaints concerning non-permitted systems. In cases of non-cooperation by a Landowner or Operator, the District may apply to the District or County Court of the county in which the irrigation system is located for an inspection warrant to allow the employee entry onto his/her property to carry out duties under the Nebraska Chemigation Act.
 - 9-4.1.** As the system is required to be started, brought to normal operating pressure, and shut down for the inspection process, a Permitholder or Applicator is required to be present during inspection by District staff. District staff will not operate any irrigation or chemigation equipment, nor will they open any electrical control box.
 - 9-4.2.** Although District staff may assist in removal and/or reattachment of the vacuum relief valve or injection line check valve, if so requested by the Permitholder or Applicator, the District is not responsible for damage done to those valves during the removal and/or reattachment process, or for any valve defect. The District will replace any injection line check valve only if damaged during the testing process for that valve.
 - 9-4.3.** A full inspection requiring a start-up and shutdown of the chemigation system will be required at least every four (4) years.
 - 9-4.4.** If the system was not inspected the year it was due for re-inspection, the permit will be suspended. A renewal application for a suspended permit will not be approved until the system has been inspected and all requirements are met. A renewal application and application fee must be submitted prior to inspection.
 - 9-4.5.** If District staff is required to make a second trip to complete a chemigation inspection, a \$50.00 fee may be charged to the Permitholder or Applicator. If subsequent trips are required, a fee of \$100.00 may be charged to the Permitholder or Applicator for each trip. District staff is authorized to use discretion in applying such fees.

RULE 9-5. Penalties

In addition to penalties provided by law for nonconformance with the Nebraska Chemigation Act or Title

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195, the penalties and procedures contained in Chapter 3 of these rules and regulations shall apply to Rule 9.