

July 13, 2009

Ground Water Management Area Rules and Regulations

Implemented - January 1, 1997
Last Amended - July 13, 2009

PUBLIC NOTICE

Administrative Order for Stay on Well Construction and Expanded Irrigated Acres, with Limited Development, in the Hydrologically Connected areas of the Lower Platte North NRD, dated July 13, 2009

The Lower Platte North NRD issued an Order at the July 13, 2009 Board Meeting for a Stay Management Area with Limited Development in the areas of the District that were preliminary declared Fully Appropriated on December 16, 2008 by the Nebraska Department of Natural Resources as hydrologically connected ground water and surface water of the Lower Platte Basin. The District shall limit development of new irrigated acres with a goal of 2,500 acres per year or a total of 10,000 acres in the hydrologically connected area over a four-year period from January 1, 2009 to December 31, 2012. A public hearing was held at the Lower Platte North NRD office at 511 Commercial Park Road in Wahoo, Nebraska on July 10, 2009 to take testimony from the public. The Order shall take effect August 6, 2009.

Upon request, maps showing the stay management area on well construction and expanded irrigated acres, with limited development, in the hydrologically connected areas of Lower Platte North NRD are available on the District website at www.lpnnrd.org or from the NRD office by calling 402-443-4675 or by mail at P.O. Box-126, Wahoo, Nebraska 68066.

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GROUND WATER MANAGEMENT AREA IN THE LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT

The Lower Platte North NRD with authority granted under Neb. Rev. Statutes 46-701 to 46-754 of the Nebraska Ground Water Management and Protection Act is proposing to designate the entire District as a Phase One Management Area for ground water quality and Level One Management area for ground water quantity. Geographically this will include all lands and water bodies within the boundaries of the Lower Platte North NRD. Stratigraphically this will include all ground water located within the boundaries of the Lower Platte North NRD and is not limited to just ground water found in the High Plains Aquifer, Principal Aquifer, Alluvial Aquifers, Dakota Aquifers or other such bedrock aquifers within the District.

Section A General Provisions

Rule 1 Definitions

Act shall mean the Nebraska Ground Water Management and Protection Act as codified in Neb. Rev. Statutes 46-701 to 46-754.

Active status water well shall mean a water well which is in use and which is not an illegal water well.

Acre-inch shall mean the amount of water necessary to cover an acre of land one inch deep;

Alleged violator shall mean any person who has failed to abide by the rules and regulations adopted by the District;

Allocation, as it relates to water use for irrigation purposes, shall mean the allotment of a specified total number of acre-inches of irrigation water per irrigated acre per year or an average number of acre-inches of irrigation water per irrigated acre over any reasonable period of time;

Beneficial use shall mean that use by which water may be put to use to the benefit of humans or other species;

Best management practices shall mean schedules of activities, maintenance procedures, and other management practices utilized for purposes of irrigation efficiency, to conserve or effect a savings of ground water, or to prevent or reduce present and future contamination of ground water. Best management practices relating to contamination of ground water may include, but not be limited to, irrigation scheduling, proper rate and timing of fertilizer application, and other fertilizer and pesticide management programs. In determining the rate of fertilizer application, the District shall consult with the University of Nebraska or a certified crop advisor certified by the American Society of Agronomy:

Board shall mean the board of directors of the Lower Platte North Natural Resources District;

Complaint shall mean any person who has filed a complaint against an alleged violator of these rules and regulations adopted by the District;

Confined aquifer shall mean an aquifer in which the ground water is isolated from the atmosphere by impermeable geologic formations and is generally subject to pressure greater than atmospheric;

Consumptive use shall mean the amount of water that is consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes of which the appropriation or other legally permitted use is lawfully made;

Contamination or contamination of ground water shall mean nitrate nitrogen or other material which enters the ground water due to action of any person and causes degradation of the quality of ground water sufficient to make such ground water unsuitable for present or reasonably foreseeable beneficial uses;

Department shall mean the Department of Natural Resources;

Dewatering well shall mean a well constructed and used solely for the purpose of lowering the ground water table elevation;

Director shall mean the Director of the Department of Natural Resources;

District shall mean the geographical area of the Lower Platte North Natural Resources District (LPNNRD) operating pursuant to Chapter 2, Article 32 of the Nebraska Statutes or the political subdivision Lower Platte North NRD;

District compliance inspector shall mean an employee or director of the District designated by the Board and authorized to perform the functions assigned thereto by these rules and regulations;

Emergency situation shall mean any set of circumstances that requires the use of water from any source that might otherwise be regulated or prohibited and the agency, district, or organization responsible for regulating water use from such source reasonably and in good faith believes that such use is necessary to protect the public health, safety, and welfare, including, if applicable, compliance with federal or state water quality standards;

Good cause shown shall mean a reasonable justification for granting a variance for a consumptive use of water that would otherwise be prohibited by rule or regulation and which the granting agency, district, or organization 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 rule or regulation from which a variance is sought;

Ground water shall mean that water which occurs in or moves, seeps, filters or percolates through ground under the surface of the land;

Ground water reservoir life goal shall mean the finite or infinite period of time which the District establishes as its goal for maintenance of the supply and quality of water in a ground water reservoir at the time a ground water management plan is adopted;

Ground water user shall mean any person who owns, rents, or leases land within the District, and who at any time extracts, withdraws, or confines ground water for any use by himself or other person;

Historic consumptive use shall mean the 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;

Historic Irrigated acre shall mean:

(1) in stay management areas any acre that is certified as such pursuant to rules and regulations of the District and that has actually been supplied water through irrigation works, mechanisms, or facilities (a) for two of the last ten years prior to the effective date of the stay management area and two years of the most recent ten year period subsequent to the effective date of the stay management area or, (b) at least one of the last two years prior to the effective date of the stay management area, or (c) land that is defined as sub-irrigated, or (d) land that was previously irrigated two of the last ten years prior to the effective date of the stay management area and two of the last most recent ten year period subsequent to the effective date of the stay management area was enrolled in a federal conservation program;

(2) in non-stay management areas any acre that is certified as such pursuant to rules and regulations of the District and that has actually been supplied water through irrigation works, mechanisms, or facilities (a) for two of the last ten years, or (b) at least one of the last two years, or (c) land that is defined as sub-irrigated, or (d) land that was previously irrigated but during two of the most recent ten year period was enrolled in a federal conservation program;

(3) The District may grant an exception for good cause shown, such as abundant rainfall received on irrigated acres when actual irrigation would not be necessary;

Hydrologically connected area shall mean the area preliminary declared Fully Appropriated by the Nebraska Department of Natural Resources on December 16, 2008 as hydrologically connected ground water and surface water of the Lower Platte Basin. Hydrologically connected areas within the Lower Platte North NRD are on file in the District office;

Illegal water well shall mean (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 rules and regulations

adopted and promulgated pursuant to the Act, (c) any water well not properly registered in accordance with N.R.S. sections 46-602 to 46-604, 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;

Improper ground water irrigation runoff shall mean the occurrence of irrigation runoff water within the boundaries of the District after adoption of these rules: (a) which occurs within a designed control or management area or (b) which occurs within a potential control or management area, or (c) which causes or contributes to the accumulation of water upon or beneath the surface of the lands of any other person(s) to their detriment or upon or beneath public property to its detriment; or (d) which causes or contributes to the deterioration of water quality;

Inactive status water well shall mean a water well that 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: (a) 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; (b) 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; (c) All entrances and discharge piping to the water well are effectively sealed to prevent the entrance of contaminants; and (d) The water well is marked so as to be easily visible and located and is labeled or otherwise marked so 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;

Incidental underground water storage shall mean underground water storage which occurs as an indirect result, rather than an intended or planned purpose, of a water project or use and includes, but is not limited to, seepage from reservoirs, canals, and laterals, and deep percolation from irrigated lands;

Intentional underground water storage shall mean underground water storage which is an intended purpose or result of a water project or use. Such storage may be accomplished by any lawful means such as injection wells, infiltration basins, canals, reservoirs, and other reasonable methods;

Irrigated acre shall mean any acre that is certified as such pursuant to rules and regulations of the District and that is actually capable of being supplied water through irrigation works, mechanisms, or facilities existing at the time of the allocation;

Irrigation runoff water shall mean ground water used for irrigation purposes which flows from the contiguous tract of land owned, leased, or otherwise under the direct supervision and control of a ground water user;

Irrigation water reuse pit shall mean an excavation constructed to capture, for reuse, runoff resulting from ground water irrigation or a structure designed for the purpose of water impoundment which is used for this same purpose so long as the capacity of the facility does not exceed fifteen acre-feet;

Landowner shall mean any person who owns land;

Management area shall mean any area so designated by the District pursuant to section 46-712 or 46-718, by the Director of Environmental Quality pursuant to section 46-725, or by the Interrelated Water Review Board pursuant to section 46-719. Management area includes a control area or a special ground water quality protection area designated prior to July 19, 1996;

Management plan shall mean the ground water management plan developed by the District and submitted to the Director of Natural Resources for review pursuant to section 46-711;

Monitoring well shall mean a water well that is designed and constructed to provide ongoing hydrologic or water quality information and is not intended for consumptive use;

Non-point source pollution shall mean a source of contamination in which the contaminant enters the receiving water in an intermittent and/or diffuse manner where a point source can not be identified;

Operator shall mean (a) a person who applies or directs the application of any fertilizer, either commercial or organic, to land totaling 10 or more acres which that person owns, leases, rents or otherwise has control of; (b) a person who controls the operation of domestic, livestock, irrigation, municipal and/or industrial well systems;

Order, except as otherwise specifically provided, includes any order required by the Nebraska Ground Water Management and Protection Act, by rule or regulation, or by a decision adopted by the District by vote of its Board of Directors taken at any regularly scheduled or specially scheduled meeting of the Board;

Overall difference between the current and fully appropriated levels of development shall mean the extent to which existing uses of hydrologically connected surface water and ground water and conservation activities result in the water supply available for purposes identified in subsection (3) of section 46-713 to be less than the water supply available if the river basin, sub-basin, or reach had been determined to be fully appropriated in accordance with section 46-714;

Perched aquifer shall mean ground water separated from an underlying main body of ground water by an unsaturated zone;

Person shall mean a natural person, a partnership, a limited liability company, an association, a corporation, a municipality, an irrigation district, an agency or a political subdivision of the state, or a department, an agency, or a bureau of the United States;

Point source shall mean (a) any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel, other floating craft, or other conveyance, over which the Department of Environmental Quality has regulatory authority and from which a substance which can cause or contribute to contamination of ground water is or may be discharged, (b) point source ground water users such as commercial/industrial, public water supply, and / or recovery well(s) that seek to collectively supply ground water equal to or greater than 300 acre feet per year to a single facility or operation;

Pollution shall mean the process by which concentration levels of a contaminant could restrict the potential use of water, land or air;

Potentiometric aquifer thickness shall mean the distance from the potentiometric surface to the base of the principal aquifer;

Potentiometric surface shall mean an imaginary surface representing the total head pressure of ground water, usually found in, but not limited to, a confined aquifer that is defined by the level to which water will rise in a well;

Public water supplier shall mean a city, village, municipal corporation, metropolitan utilities district, rural water district, natural resources district, irrigation district, reclamation district, or sanitary and improvement district which supplies or intends to supply water to inhabitants of cities, villages, or rural areas for domestic or municipal purposes;

Replacement water well shall mean a water well which is constructed to provide water for the same purpose as the original water well and is operating in accordance with any applicable permit from the department and any applicable rules and regulations of the District and, if purpose is for irrigation, the replacement water well delivers water to the same tract of land served by the original water well and is a water well pumping from a comparable aquifer and yielding approximately the same gallons per minute and total annual water use as the original water well it is replacing and (a) replaces a decommissioned water well within one hundred eighty days after the decommissioning of the original water well, (b) replaces a water well that has not been decommissioned but will not be used after construction of the new water well and the original water well will be decommissioned within one hundred eighty 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 new water well but shall be decommissioned within one year after completion of the replacement water well, (c) the original water well will continue to be used but will be modified and equipped within one hundred eighty days after such construction of the replacement water well to pump fifty gallons per minute or less and will be

used only for livestock, monitoring, observation, or any other nonconsumptive or de minimis use approved by the District;

Rotation shall mean a recurring series of use and non-use of irrigation wells on an hourly, daily, weekly, monthly, or yearly basis;

Semi-confined aquifer shall mean an aquifer confined by a low-permeability layer that permits water to slowly flow through it. Also known as a leaky artesian or leaky confined aquifer;

Sub-irrigation or sub-irrigated land shall mean the natural occurrence of a ground water table within the root zone of agricultural vegetation, not exceeding ten feet below the surface of the ground, to qualify as sub-irrigation, the landowner or operator must provide to the District ground water level measurements taken at least monthly through-out the growing season of May through September for five of the last ten years and/or provide crop yields showing that sub-irrigation was able to sustain the crop through-out the growing season for five of the last ten years with comparable yields to irrigated crop ground;

Surface water project sponsor shall mean an irrigation district created pursuant to Chapter 46, article 1, a reclamation district created pursuant to Chapter 46, article 5, or a public power and irrigation district created pursuant to Chapter 70, article 6;

Test hole shall mean a hole designed solely for the purposes of obtaining information on hydrologic or geologic conditions;

To commence construction of a water well shall mean the beginning of the boring, drilling, jetting, digging, or excavating of the actual water well from which ground water is to be withdrawn;

Unconfined Aquifer shall mean an aquifer in which there are no confining beds between the zone of saturation and the surface and is generally exposed to atmospheric pressure;

Underground water storage shall mean the act of storing or recharging water in underground strata. Such water shall be known as water stored underground, but does not include ground water as defined in section 46-706 which occurs naturally;

Variance shall mean (a) an approval to deviate from a restriction imposed under subsection (1), (2), (9), or (10) of section 46-714 or (b) the approval to act in a manner contrary to existing rules or regulations from a governing body whose rule or regulation is otherwise applicable;

Water well shall mean (a) 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 section 81-1502 into the underground water

reservoir (b) 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. (c) Water well shall not include (i) any excavation made for obtaining or prospecting for oil or natural gas or for inserting media to repressure oil or natural gas bearing formations regulated by the Nebraska Oil and Gas Conservation Commission or (ii) any structure requiring a permit by the Department of Natural Resources used to exercise surface water appropriation;

Water well permit condition shall mean a requirement placed upon a well permit issued by the District for approval of construction of a water well; and

Wellhead Protection area shall mean the surface and subsurface area surrounding a water well or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or well field.

Section B Enforcement Procedures for the Lower Platte North Natural Resources District's Management Area

Rule 1 Procedures and Measures for Compliance of Irrigation Runoff Water

In order to conserve ground water supplies and to prevent the inefficient or improper runoff of such ground water, each person who uses ground water irrigation in the District shall take action to control or prevent the runoff of water used in such irrigation. A ground water user may implement any structural or non-structural procedure, measure, or combination thereof which provides for effective prevention, control or abatement of improper ground water irrigation runoff, including, but not limited to: (a) limitation of water utilized by non-structural management practices, including, but not limited to proper irrigation scheduling such that structural measures are not necessary to prevent irrigation runoff water; (b) the proper operation and management of the irrigation system, including any reuse or other control measures previously installed; (c) construction of a runoff collection and/or retention system such as a sump or dugout, together with a reuse pump and/or ditch to return the water to the same or other field for beneficial use; (d) blocking of rows or field borders in such a manner that will contain irrigation water within the property under the direct supervision or control of the ground water user; (e) the execution and performance of an agreement between two or more persons and approved by the District for utilization of any irrigation runoff water in accordance with Section B, Rule 2 of these rules and regulations; or (f) any other acceptable procedure or measure approved by the District.

Rule 2 Agreements Between Ground Water Users for Irrigation Runoff Water

Ground water users whose irrigation runoff water is capable of being captured and utilized by another ground water user or other person in a manner which will prevent waste and provide practical and efficient use of such water, to prevent deterioration of surface water quality, and to prevent accumulation of water upon the land of any other person without their consent may have such water excluded from the definition of improper ground water irrigation runoff water by submitting to the District an agreement providing for such capture and utilization signed by all affected parties, on forms provided by the District. When such agreement is approved by the District, it will indicate the District's concurrence that the ground water user's irrigation runoff water is under adequate control. Such agreement may be terminated at any time by either party or by the District whenever it determines that such agreement no longer prevents or controls improper ground water irrigation runoff water. If the District terminates the agreement, written notice shall be provided to both parties. If either of the parties to the agreement causes termination of the agreement, written notice shall be provided to the other party and to the District.

Rule 3 General Provisions for Enforcement

The District shall enforce the provisions of N.R.S. Sections 46-602 and Sections 46-702 through 46-754 and all rules and regulations adopted pursuant thereto by the issuance of cease and desist orders in accordance with the procedure hereinafter specified and by bringing appropriate actions in the District Court of the County in which any violations occur for enforcement of such orders. Cease and desist orders may be issued for the following reasons: (a) Operation of an irrigation

system in a manner which allows for improper ground water irrigation runoff as defined in Section A, Rule 1 of these rules and regulations. (b) Construction or operation of an illegal well as defined in Section A, Rule 1 of these rules and regulations. (c) Violation of these rules and regulations as outlined in Sections A through Q.

Rule 4 Inspections

Any person who owns, rents, or leases land within or immediately adjacent to the boundaries of the District, any person who resides within the District, Board of an adjacent District or a Board member or staff member of the District may request an inspection of a ground water user alleging a violation of these rules and regulations or that such ground water user is constructing or operating an illegal well. Within a reasonable period of time, but in any event, not later than five (5) days following the inspection request exclusive of Saturdays, Sundays, and legal holidays, the land where the alleged violation occurred shall be inspected by a person designated by the District. The District compliance inspector, upon proper identification and after informing the person in control of the land of the inspector's purpose, is authorized to enter upon the land for the purposes of making an inspection of the alleged violation. Upon completion of the inspection, the inspector shall file a report of the inspector's findings in the District office. A copy of said report shall be delivered to the alleged violator and to the complainant, if other than the Board, in person, or at their places of residence, or shall be sent to them by registered or certified mail.

Rule 5 District Enforcement Actions

If the District compliance inspector finds there is reasonable cause to believe that a ground water user is at the time of inspection or at the time the inspection request was received, to be in violation of these rules and regulations or constructing or operating an illegal well; the District shall take one or more of the following actions: (a) seek voluntary compliance by the alleged violator, (b) alleged violator will be sent a certified or registered letter notifying them that they have until a specified date to submit the required report, information, or undertake and complete the required corrective action, (c) alleged violator will be sent a certified or registered letter requesting attendance at a Special hearing, Committee meeting, or Board meeting of the District and to provide required reports, information, or undertake and complete the required corrective action (d) alleged violator sent a certified or registered letter allowing the alleged violator 7 days upon receipt of that letter to request a Hearing before the Board and allowed to present evidence on their behalf, (e) issue cease and desist orders, following ten days notice to the alleged violator stating the contemplated action and in general the grounds for the action and following reasonable opportunity to be heard, to enforce any of the provisions of the act or of orders or permits issued pursuant to the act, to initiated suits to enforce the provisions of orders issued pursuant to the act, and to restrain the construction of illegal water wells or the use of water from illegal water wells, (f) issue an immediate cease and desist order when there is an imminent threat to the public's health or the environment, and upon ten days notice to the alleged violator, require their attendance at a subsequent Special hearing, Committee meeting or Board meeting of the District, or (g) initiate appropriate legal actions in the District Court of the County in which the violation has occurred. If any schedule of compliance or work order approved by the Board is not initiated as agreed to or is not being properly and timely carried out, unless due to

circumstances beyond the control of the alleged violator, the Board shall authorize immediate initiation of appropriate litigation.

Rule 6 Violation of Cease and Desist Orders

(a) Any person who violates a cease and desist order issued by the District pursuant to section 46-707 shall be subject to a civil penalty of not less than one thousand dollars and not more than five thousand dollars per violation per day. In assessing the amount of the civil penalty, the court shall consider the degree and extent of the violation, the size of the operation, whether the violator has been previously convicted or subjected to a civil penalty under this section, and any economic benefit derived from noncompliance. (b) Prior to issuing a cease and desist order against a public water supplier as defined in section 46-638, the District shall consult with the Attorney General. If the Attorney General determines that the District does not have sufficient grounds to issue a cease and desist order, the District shall abide by such determination and shall not issue a cease and desist order. The Attorney General shall have exclusive authority to enforce actions under this subsection. (c) Any determination as to the whether a water well is properly registered under sections 46-602 to 46-604 or whether a water well is properly permitted under the Municipal and Rural Domestic Ground Water Transfers Permit Act shall be made by the Department of Natural Resources. (d) Any person who violates any cease and desist order issued by the District pursuant to section 46-707 or any control, rules, or regulations adopted by a natural resources district in relation to a management area shall be subject to the imposition of penalties imposed through the controls adopted by the District, including, but not limited to, having any allocation of water granted or irrigated acres certified by the District reduced in whole or in part. Before the District takes any action, notice and hearing shall be provided to such person. (e) Any person who violates any of the provisions of sections 46-721 to 46-733 for which a penalty is not otherwise provided, other than the requirements imposed on the District, the Director of Natural Resources, or the Department of Natural Resources, shall be subject to a civil penalty of not more than five hundred dollars. Each day of continued violation shall constitute a separate offense.

Section C Ground Water Management Area Advisory Board

Rule 1 Advisory Board

The District shall establish an Advisory Board composed of individuals representing different groups that will be affected by the District's Management Area. The purpose of the Advisory Board is to provide recommendations to the staff and Board in developing the rules and regulations for the District's Management Area. The Advisory Board is composed of 15 members representing the following groups:

Farmer/Irrigator	4
Farmer/Dryland	1
Fertilizer Dealer	2
Turf Grass Production	1
Crop Consultant	1
Cattle Feedlot Operation	1
Hog Confinement Operation	1
Poultry Operation	1
Packing Plant	1
Golf Course Manager	1
Municipality	1

Section D Ground Water Management Area

Rule 1 Adoption of Ground Water Management Area Rules and Regulations

A district in which a management area has been designated shall by order adopt one or more of the controls for the management area as listed in N.R.S. 46-707 and 46-739:

The District has adopted controls with the issuance of an Order at the November 7th 1996 Board Meeting to implement a Ground Water Management Area covering the entire District beginning on January 1, 1997. The District has amended these rules and regulations with the issuance of an Order at the December 12, 2005 Board meeting to begin on January 25, 2006. The District has further amended these rules and regulations with the issuance of an Order at the March 13, 2008 Board meeting to be implemented on May 9, 2008. With the passage of LB483, the District amended these rules and regulations with the issuance of an Order at the July 13, 2009 Board meeting to be implemented on August 6, 2009.

Section E Water Well Permits

Rule 1 Permit Application to Construct Water Well

(1) Any person who intends to construct a water well in a management area in the District on land which he or she owns or controls shall, before commencing construction, apply with the District for a permit on forms provided by the District, except that no permit shall be required for test holes or dewatering wells with an intended use of thirty days or less. Permit is required for water wells designed and constructed to pump greater than fifty gallons per minute in the entire District. A permit is required for water wells defined by the District to be replacement water wells. A permit is required for a water well designed and constructed to pump fifty gallons per minute or less if such water well is commingled, combined, clustered, or joined with any other water well or wells or other water source, other than a water source used to water range livestock. Such wells shall be considered one water well and the combined capacity shall be used as the rated capacity. In Stay management areas and Level three management areas, a permit must be obtained for each water well or for one or more categories of water wells designed and constructed to pump fifty gallons per minute or less, other than a domestic water well required for human needs as it relates to health, fire control, sanitation, and irrigation on less than one acre of land or used to water range livestock, in ground water management areas in which regulations have been imposed to control declining ground water levels. Forms are available at the District's office and at such other places as the District may deem appropriate. The District shall review such application and issue or deny the permit, with or without well permit conditions, within thirty days after the application is filed.

(2) A person shall apply for a permit under Section E, Rule 1 before he or she modifies a water well for which a permit was not required under subsection (1) of Rule 1 into one for which a permit would otherwise be required under such subsection.

(3) Applications for water well permits for domestic, livestock, irrigation, municipal and/or industrial use must have an NRD certified operator listed on the application form. The operator will be the person who shall control the operation of the domestic, livestock, irrigation, municipal and/or industrial well for which the application is being made.

(4) The application shall be accompanied by a non-refundable fifty-dollar filing fee payable to the District, and shall contain (a) the name and post office address of the applicant or applicants, (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 water is to be used for irrigation, (g) a description of the proposed use if other than for irrigation purposes, (h) the registration number of the water well being replaced if applicable, (i) such other information as the District requires.

(5) The District hereby designates different classes of water well permits based on the well pumping capacity in gallons per minute, number of acres being irrigated, or expected total annual water use.

(a) Class one water well permits are required on all low capacity wells, which pump fifty gallons per minute or less in Stay management areas and Level three management areas. Exceptions are for domestic water wells required for human needs as it relates to health, fire control, sanitation,

and irrigation on less than one acre of land or used to water range livestock.

(b) Class two water well permits are required on all high capacity wells that pump greater than fifty gallons per minute, or irrigate less than or equal to one hundred and sixty acres, or expected total annual water use of less than or equal to one hundred and fifty acre feet per year.

(c) Class three water well permits are required on all high capacity wells that pump greater than fifty gallons per minute, or irrigate land greater than one hundred and sixty acres, or expected total annual water use is greater than one hundred and fifty acre feet per year but less than three hundred acre feet per year. Applicant must submit additional information of all registered wells, test holes, and all surface water rights in a two mile radius of the proposed water use as specified on the water well permit application form, and in addition to the fifty dollar permit filing fee, must submit a two hundred and fifty dollar fee for District review.

(d) Class four water well permits are required on all high capacity wells that pump greater than fifty gallons per minute with an expected total annual water use equal to or greater than 300 acre feet per year, regardless of the number of irrigated acres. Class four water well permits are required for point source ground water users that seek to collectively supply ground water equal to or greater than 300 acre feet per year to a single facility or operation. The applicant must submit additional information of all registered wells, test holes, and all surface water rights in a five mile radius of the proposed water use, perform an District approved aquifer pump test, and perform a ground water model using MODFLOW software or a similar software program approved by the District as specified on the water well permit application form, and in addition to the fifty dollar permit filing fee, must submit a five hundred dollar fee for District review.

(e) If proposed changes in operation, based on the well pumping capacity in gallons per minute, number of acres being irrigated, or expected total annual water use would place the existing class of well permit into a different class, the owner and/or operator will need to apply for new well permit prior to commencement of new operations.

(f) If proposed changes in the beneficial use of water as listed on the original water well permit, such as industrial to irrigation well, the owner and/or operator shall apply for a new water well permit to the District prior to commencement of those new water uses. District review fees for class three and class four water well permits may be waived, but will be determined on a case-by-case basis.

(6) Any person who has failed or in the future fails to obtain a permit required by subsection (1) or (2) of Section E, Rule 1 shall make application for a late permit on forms provided by the District.

(7) The application for a late permit shall be accompanied by a two-hundred-fifty-dollar fee payable to the District, and shall contain the same information required in subsection (4) of Section E, Rule 1.

(8) The District may place conditions on approval of a water well permit such as installation of a District approved flow meter, time totalizer, monitoring equipment to measure ground water levels, require water quality sampling, specify reporting requirements to the District, or that new or replacement water wells to be used for domestic or other purposes shall be constructed to such a depth that they are less likely to be affected by seasonal water level declines caused by other water wells in the same area. For new water uses on all water well permits approved and issued by the District on or after October 1, 2005 to May 8, 2008, the District shall impose a well permit condition that a District approved flow meter or time totalizer

be installed on each high capacity well to measure flow from that well and to report to the District the total gallons or total acre inches pumped by that well in a given year to the District by January 31 of the following year. For water uses on all new and replacement water well permits approved and issued by the District after May 8, 2008, the District shall impose a well permit condition that a District approved flow meter be properly installed and recalibrated every four years to provide an accurate flow measurement on each high capacity well in the District, and on each specified low capacity well in a Stay or Level three management area as listed in Section E, Rule 1(5)(a), and to report to the District the total gallons or total acre inches pumped by that well in a given year to the District by January 31 of the following year. If water is commingled from more than one water source, the flow meter may alternatively be placed at a central location thru which all water will pass before delivery to the prescribed water use location as stated in the water well permit application. The well owner will allow access to the well when it is running by District personnel to take a flow measurement.

(9) The District may close all or a portion of the management area to the issuance of additional permits or may condition the issuance of additional permits on compliance with other rules and regulation adopted and promulgated by the District to achieve the purpose or purposes for which the management area was designated.

Rule 2 Denial of Water Well Permit

(1) An application for a permit or late permit for a water well in a management area shall be denied if the District finds (a) that the location or operation of the proposed water well or other work would conflict with any regulations or controls adopted by the District, (b) that the proposed use would not be a beneficial use of water, 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.

(2) It is a violation of these regulations to locate or operate a water well or other work if: (a) the District determines that the location or operation of a proposed water well or other work would adversely impact current or proposed clean up operations of hazardous materials being conducted by NDEQ or overseen by NDEQ, including the clean up operations of the Former Mead Ordnance Plant, (b) the District determines that the location or operation of the water well or other work will endanger the health and welfare of the District by significantly impeding the conservation, protection, development and sound management of natural resources in the District, (c) the District determines that the location or operation of the water well or other work may have significant adverse affects on any other water user; (d) the District determines that the location or operation of the water well or other work is not in the public interest; or (e) the District determines that the location or operation of the water well or other work will conflict with any regulations or controls adopted by the District.

(3) If the District finds that the application is incomplete, defective, or additional information is required to process the application, it shall return the application for correction. The District may return the application for additional information if the District determines that adverse impacts to the environment or to existing users may occur if the application is granted. If the correction is not made within sixty days, the application shall be cancelled. All permits shall be issued with or without conditions attached or denied not later than thirty days after receipt by the District of a complete and properly prepared application.

(4) The District shall have the authority to impose such water well permit conditions as the District finds appropriate to protect the health and welfare of the District, to promote the conservation, protection, development, and sound management of natural resources in the District, to protect existing users, to promote the public interest, or to prevent the violation of any regulations or controls adopted by the District. Such conditions may include, but not limited to, any of the controls set forth in N.R.S. Section 46-739.

(5) A permit issued shall specify all regulations and controls adopted by a District relevant to the construction or utilization of the proposed water well. No refund of any application fees shall be made regardless of whether the permit is issued, canceled, or denied. The District shall transmit one copy of each permit issued to the Director of Natural Resources.

Rule 3 Issuance of Water Well Permit

The issuance by the District of a permit pursuant to Section E, Rule 3 of these rules and regulations or registration of a water well by the Director of Natural Resources pursuant to N.R.S. Section 46-602 shall not vest in any person the right to violate any District 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 property adopted after such date.

Rule 4 Construction of Water Well After Issuance of Permit

When any permit is approved pursuant to Section E, Rule 3, the applicant shall commence construction as soon as possible after the date of approval and shall complete the construction and equip the water well prior to the date specified in the conditions of approval, which date shall be not more than one year after the date of approval, unless it is clearly demonstrated in the application that one year is an insufficient period of time for such construction. If the applicant fails to complete the project under the terms of the permit, the District may withdraw the permit.

Rule 5 Time Limit on Full Water Utilization from Water Well as listed in Approved Permit

After completion of the water well, the owner and/or operator has until the end of the following calendar year to purchase and install all equipment necessary to irrigate all land listed in the water well permit. If the owner or operator fails to purchase and install equipment by December 31th of the following year, then the permit shall be modified to list the acres actually irrigated. The District may grant an exception for good cause shown.

Rule 6 Replacement Water Wells

Replacement Water Wells as defined in Section A will require a permit application to the District before the well is constructed.

Rule 7 Decommission of Water Wells

The District shall require decommissioning of water wells that are not properly classified as active status or inactive status water wells as defined in Section A, Rule 1.

Rule 8 Suspension of Water Well Permit

(1) The District may suspend an approved water well permit if the Board finds violation of the District's rules and regulations. If the District believes the water well permit should be suspended, the District will inform the landowner with at least a 45 day notice stating the intentions of the District and allowing the landowner to request a hearing before the Board of Directors within that time limit.

(2) Water well permits shall be reinstated to the same class of well permit as originally suspended, when the owner and/or operator returns to compliance with the District's rules and regulations and following Board approval.

Section F Ground Water Quality Management Area - Phase One

Rule 1 Phase One Criteria

Phase One triggers are set at 0 to 80% of the contaminants MCL/LHAL and includes the entire District. Phase One nitrate-nitrogen triggers are set at 0 to 8 parts per million in the ground water reservoir with other human-induced non-point source contaminants, such as pesticides, based upon 0 to 80 % of the Maximum Contaminant Levels (MCL) or Lifetime Health Advisory Levels (LHAL).

Rule 2 Natural Resources District Certification

All operators in Phase One areas within the District, who use any type of fertilizer, either commercial or organic, are required to obtain NRD certification by attending NRD education classes or by passing a take home test designed by LPNNRD and in agreement with applicable other agency input every four (4) years. Certification will be consistent with the District's chemigation program and applicable to the State FIFRA program.

Rule 3 Ground Water Analysis Once Every Four Years Encouraged

A ground water analysis for nitrogen (nitrate-nitrogen) content for irrigation, municipal, and industrial wells is encouraged at least once every four years using the District's approved analysis methods. Results may be submitted to the District by December 31 of the year tested. This rule is waived for wells that are on inactive status, as defined in Nebraska State Statutes, during the entire four year cycle.

Rule 4 Soil Analysis Encouraged

Prior to the planting of corn, potatoes, or grain sorghum, a soil analysis 3 feet in depth for nitrogen (nitrate-nitrogen) content for each field at least 40 acres in size, under control of the operator is encouraged at least once every four years. District approved analysis methods should be used, and results are encouraged to be submitted to the District by December 31 of the year tested.

Rule 5 Fertilizer Application Report Encouraged

All operators are encouraged to submit a Fertilizer Application Report for each field 19 acres in size or larger, to the District at least once every four years on a form provided by the District, which indicates the pounds per acre of nitrogen (commercial and organic) applied to each field under their control for the past four years. The quantity in pounds per acre of pesticides applied for each field will also be encouraged. Such reports will incorporate, if applicable, those reports required under the District's chemigation program and such reporting requirements resulting from the implementation of the State assumption of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA).

Rule 6 Manure Application

Application of organic fertilizer (liquid manure, dried manure, sludge or composted organic waste) is very diversified and poses management problems relative to the size of the operation. Not all organic waste contains the same amount of N per unit of measurement, as such the

amount/acre/year allowed to be applied in Phase I areas will be based on method of collection and storage, land application method, types of crops or cover crop, soil types, landscape features, source of manure, and previous manure application rates. Amount/acre/year of manure applied on each field is encouraged to be reported on the Fertilizer Application Report and submitted to the District once every four years.

Rule 7 Fertilizer Application on Non-sandy Soils

No fall applications of N fertilizer (commercial) for row crops will be allowed on non-sandy or fine textured soils until after November 1.

Rule 8 Fertilizer Application on Sandy Soils

Fall and winter applications of N fertilizer (commercial) for row crops will be prohibited on sandy soils. Commercial fertilizer can be applied on sandy soils after March 1 of the crop year.

Section G Ground Water Quality Management Area - Phase Two

Rule 1 Phase Two Criteria

Phase Two triggers are from 8.01 to 10 parts per million nitrate-nitrogen concentration in the ground water or when other non-point source contaminants are present at 81-100% of the MCL/LHAL. Within the same ground water reservoir, boundary setting for Phase Two Areas will be initiated when: water quality analytical results, within a minimum 9 square mile area, are at identified trigger levels for a minimum of 2 sampling events. The Area must contain a minimum of 10 registered wells and contaminant trigger levels must be exceeded in over 50% of the wells. When registered wells are not available, other wells may be used. Initial investigation by the District will be to determine if the contamination is a result of point-source or non-point source pollution. If non-point source pollution is found to be the reason, more intensive investigation for boundary setting will ensue. If a Wellhead Protection Area should be established due to non-point source pollution, the District may set boundaries that are less than 9 square miles. After the establishment of a Phase Two Area, if non-point source contamination levels should decline, two consecutive sampling events below the trigger levels are needed before the Area could be placed in Phase One.

Rule 2 Continuation of Phase One Rules

A continuation of Phase One Rules as defined in Section E, Rule 1-6, Section F, Rules 2, 6 and 8 shall apply.

Rule 3 Ground Water Analysis Annually

A Ground water analysis for nitrogen (nitrate-nitrogen) content for all irrigation, municipal, and industrial wells must be made annually and reported to the District by December 31 of each year. This rule is waived for wells that are on inactive status as defined in Nebraska State Statutes.

Rule 4 Soil Samples

Prior to the planting of corn, potatoes, or grain sorghum, annual soil samples in the root zone, 3 feet in depth, for nitrogen (nitrate-nitrogen) content on each field at least 40 acres in size are required for Phase Two and Phase Three Areas. The results of the soil samples will accompany the annual report made to the District by December 31 of each year.

Rule 5 Fertilizer Application Report

All operators will submit a Fertilizer Application Report to the District for each field 19 acres in size or larger, at the end of each crop year or by December 31 of each year. Submittal will be on a form(s) developed by the District. Reporting of the application of pesticides will be encouraged on this form.

Rule 6 Fertilizer Applications on Non-Sandy Soils with Approved Inhibitor

Commercial nitrogen-fertilizer, such as anhydrous ammonia, will be permitted on non-sandy or fine textured soils from November 1 to March 1, provided that an approved inhibitor is used and applied as recommended. After March 1 an inhibitor is not needed.

Rule 7 Furnish Record from Fertilizer Dealer that District Approved Inhibitor was Used

In order to assure use of an approved inhibitor, the operator will be required to furnish the District the record from a fertilizer dealer that a District approved inhibitor was used and applied at recommended rates. This record shall accompany the Fertilizer Application report made to the District by December 31 of each year.

Rule 8 Fertilizer Calibration Encouraged

The District will begin a voluntary fertilizer calibration program addressing all applications and will strongly encourage operators to participate in the process. The District may, as conditions warrant, choose to develop a cost share program with operators.

Rule 9 Monitoring of Water Applications

Flow meters or time totalizers will be required on all irrigation wells in a Phase 2 or 3 management areas to monitor water applications to allow operators to better manage fertilizer applications and control excessive nitrate leaching into the aquifer. If time totalizers are used, then well output must be certified by the District. This activity will be phased in over a period of four (4) years after a Phase management area has been implemented by the Board. Total water use during the growing season will be recorded on the Fertilizer Application Report that is to be submitted by December 31 of each year.

Rule 10 Manure Applications

In Phase Two and Phase Three Areas, amount per acre per year of organic fertilizer allowed to be applied (liquid manure, dried manure, sludge, or composted organic waste) will be based on method of collection and storage, land application method, types of crops or cover crop, soil types, landscape features, source of manure, and previous manure application rates. The Nebraska Cooperative Extension Service Bulletin EC 89-117 "Fertilizing Crops with Animal Manure" shall be used as guidance unless more current guidelines are available.

Amount/acre/year of manure applied on each field is to be reported on the Fertilizer Application Report and submitted to the District by December 31 of each year. The amount and timing of application must be adjusted to the N concentration in the soil profile and ground water content. Application is allowed to frozen soils and is to be determined on a site-by-site basis as this is a prime cause of both ground water and surface water degradation.

Rule 11 Education Program Expanded

The education program will be expanded to assist the Phase Two operators and other personnel in the area to realize that continued increases of nitrate and/or other non-point source contamination could cause the area to be elevated to a Phase Three Area.

Section H Ground Water Quality Management Area - Phase Three

Rule 1 Phase Three Criteria

Phase Three Areas will be established when the MCL/LHAL is exceeded (>100%). Phase Three trigger levels range from 10.01 parts per million or greater for nitrate-nitrogen, with other human-induced non-point source contaminants, based upon greater than 100% of the Maximum Contaminant Levels (MCL) or Lifetime Health Advisory Levels (LHAL). Within the same ground water reservoir, boundary setting for Phase Three Areas will be initiated when: water quality analytical results within a minimum 9 square mile area are at identified trigger levels for a minimum of 2 sampling events. The area must contain a minimum of 10 registered wells and contaminant trigger levels must be exceeded in over 50% of the wells. When registered wells are not available, other wells may be used. Initial investigation by the District will be to determine if the contamination is a result of point-source or non-point source pollution. If non-point source pollution is found to be the reason, more intensive investigation for boundary setting will ensue. If a Wellhead Protection Area should be established due to non-point source pollution, the District may set boundaries that are less than 9 square miles. After the establishment of a Phase Three Area, if non-point source contamination levels should decline, two consecutive sampling events below the trigger levels are needed before the Area could be placed in Phase Two or Phase One.

Rule 2 Continuation of Phase One and Two Rules

A continuation of Phase One Rules as defined in Section E, Rules 1-6, Section F, Rule 2 and in Phase Two Rules as defined in Section G, Rules 3, 4, 5, 8, 9, 10 and 11 shall apply.

Rule 3 Fertilizer Application On All Soils

The application of commercial nitrogen fertilizer is prohibited in the fall and winter on all soils until after March 1. Spring applications of commercial nitrogen fertilizer will require split applications (pre-plant and side-dress) or the use of an approved inhibitor applied as recommended. If a split application is used and 50 percent or more of nitrogen fertilizer is applied as a pre-plant, the use of an approved inhibitor, applied as recommended, is still required.

Rule 4 Record that District Approved Inhibitor was Used

If 50% or more of commercial nitrogen fertilizer is applied at pre-plant, then operators are required to furnish the District a record from the fertilizer dealer that a District inhibitor was used at recommended rates. This record shall accompany the Fertilizer Application report made to the District by December 31 of each year.

Section I Ground Water Quantity Management Area - Level One

Rule 1 Level One Criteria

Level One aquifer management areas are designated for the entire District. As more information becomes available subareas shall be further defined. Due to hydrologic considerations, District monitoring wells are not to be located on municipal well field property.

Rule 2 Certification of Historically Irrigated Acres

The District will certify historically irrigated acres within the District using records from the County Assessor, Department of Natural Resources registered well database, Farm Service Agency, and other records the District deems pertinent. The District will base its initial determination using County Assessor records, DNR registered well database, and other relevant information. Landowners may be required to provide FSA records if they disagree with the District's information.

Rule 3 Natural Resources District Certification

The District will be designated a Level One Quantity Area and operators of irrigation, municipal, and industrial well systems are required to obtain NRD certification by attending NRD education classes or by passing a take home test designed by LPNNRD and in agreement with applicable other agency input every four (4) years.

Rule 4 Well Spacing Requirements

Well spacing requirements will be applied in the Level One Area pursuant to N.R.S. Sections 46-609, 46-651 and 46-739. Well spacing shall vary with aquifer subarea, which will include, but not limited to, areal extent of the primary aquifer, type of aquifer ranging from confined to unconfined aquifers, saturated thickness, transmissivity, availability of alternative aquifers of sufficient water quality to allow for beneficial use, local recharge characteristics and rates from any water sources, current development of water use within the designated area and projected future water use, climatic conditions, and discretionary factors determined by the Board.

Rule 5 Water Well Permits

Prior to well construction, a LPNNRD water well permit is required for all new and replacement water wells in the District, which will pump greater than 50 g.p.m. as outlined in Section E, Rules 1-6.

Rule 6 Well Metering Encouraged

The District will encourage well metering with the installation of flow meters on all existing high capacity wells.

Rule 7 Acre-Inch Allocations Encouraged

The District will encourage an acre-inch allocation system that will be developed per commercial crops planted that are dependent on that particular aquifer subarea.

Rule 8 Water Use Report Encouraged

The District will encourage submission of the Water Use Report on all existing high capacity wells to the LPNNRD by January 31 of each following year.

Rule 9 David City Level 1A Management Area

On January 15, 2007 the District declared the David City area as a Level 1A ground water management area due to declines in ground water energy levels. The District shall designate this area as a Level 2 management area, as defined in Section J, Rule 1.2, if the ground water energy levels have not recovered below the trigger levels for two consecutive spring readings by the completion of the Spring 2011 measurements in the District GWEL network wells.

Section J Ground Water Quantity Management Area - Level Two

Rule 1 Level Two Criteria

Rule 1.1 Unconfined Aquifer Criteria

Unconfined aquifer management subareas are to be designated within the District when conditions indicate a 10% drop in the saturated thickness of the aquifer. Assessment of percentage drop will be calculated utilizing the spring readings of District monitoring wells over a consecutive three (3) year period assessed against the 1987 baseline ground water levels or a more recent baseline year ground water level, adopted by the Board of Directors and revised in the Ground Water Management Rules and Regulations. When greater than 50% of the area within a subarea has reached or exceeded the trigger level, then a Level Two management area can be established. Assessment of the percentage of a sub-area will be determined by applying an area-weighting method to District GWEL wells. As more information becomes available subareas shall be further defined. Due to hydrologic considerations for point source ground water users, a sub-area can be defined as the cone of influence created from commercial / industrial, public water supply, and / or recovery well(s) that seek to collectively supply ground water equal to or greater than 300 acre feet per year to a single facility or operation. The cone of influence will be determined by the use of ground water modeling software, such as MODFLOW, or a similar modeling program approved by Lower Platte North NRD. District GWEL network monitoring wells are not to be located on municipal well field property. After the establishment of a Level Two Area, if ground water levels should recover, two consecutive spring readings below the trigger levels are needed before the Ground Water Quantity Management Area could be placed as a Level One management area.

Rule 1.2 Confined Aquifer Criteria

Confined aquifer management subareas are to be designated within the District when conditions, indicate a 7% drop in potentiometric-aquifer thickness. Assessment of percentage drop will be calculated utilizing the spring readings of District monitoring wells over a consecutive three (3) year period assessed against the 1987 baseline ground water levels or a more recent baseline year ground water level, adopted by the Board of Directors and revised in the Ground Water Management Rules and Regulations. When greater than 50% of the area within a subarea has reached or exceeded the trigger level, then a Level Two management area can be established. Assessment of the percentage of a sub-area will be determined by applying an area-weighting method to District GWEL wells. As more information becomes available subareas shall be further defined. Due to hydrologic considerations for point source ground water users, a sub-area can be defined as the cone of influence created from commercial / industrial, public water supply, and / or recovery well(s) that seek to collectively supply ground water equal to or greater than 300 acre feet per year to a single facility or operation. The cone of influence will be determined by the use of ground water modeling software, such as MODFLOW, or a similar modeling program approved by Lower Platte North NRD. District GWEL network monitoring wells are not to be located on municipal well field property. After the establishment of a Level Two Area, if ground water levels should recover, two consecutive spring readings below the trigger levels are needed before the Ground Water Quantity Management Area could be placed as a Level One management area.

Rule 2 Continuation of Level One Rules

A continuation of Level One Rules as defined in Section E, Rules 1-6 and Section I, Rules 2 - 5 shall apply.

Rule 3 Well Metering

Flow meters are required on all new, replacement and existing high capacity wells.

Rule 4 Acre-Inch Allocations

An acre-inch allocation will be put into place by the District and will be based on the aquifer subarea, crop planted, irrigation distribution system, percent decline of the aquifer, water use of the aquifer, climatic conditions, net corn crop requirements, and discretionary factors.

Rule 5 Reduction of Irrigated Acres

As an alternative to Section J, Rule 4, the District may require a reduction of irrigated acres. Except as permitted pursuant to subsections (4) through (6) of section 46-739, if annual rotation or reduction of irrigated acres is adopted for use of ground water for irrigation purposes in a management area, the nonuse of irrigated acres shall be a uniform percentage reduction of each landowner's irrigated acres within the management area or a subarea of the management area. Such uniform reduction may be adjusted for each landowner based upon crops grown on his or her land to reflect the varying consumptive requirements between crops.

Rule 6 Water Use Report

The District will require annual submission of the Water Use Report on all new, replacement, and existing high capacity wells to the District by January 31st of the following year.

Rule 7 Best Management Practices Encouraged

Best management practices are encouraged to conserve water and will be developed prior to designation of the Area as a Level Two management area.

Section K Ground Water Quantity Management Area - Level Three

Rule 1 Level Three Criteria

Rule 1.1 Unconfined Aquifer Criteria

Unconfined aquifer management subareas are to be designated within the District when conditions, indicate a 15% drop or greater in the saturated thickness of the aquifer. Assessment of percentage drop will be calculated utilizing the spring readings of District monitoring wells over a consecutive three (3) year period assessed against the 1987 baseline ground water levels or a more recent baseline year ground water level, adopted by the Board of Directors and revised in the Ground Water Management Rules and Regulations. When greater than 50% of the area within a subarea has reached or exceeded the trigger level, then a Level Three management area can be established. Assessment of the percentage of a sub-area will be determined by applying an area-weighting method to District GWEL wells. As more information becomes available subareas shall be further defined. Due to hydrologic considerations for point source ground water users, a sub-area can be defined as the cone of influence created from commercial / industrial, public water supply, and / or recovery well(s) that seek to collectively supply ground water equal to or greater than 300 acre feet per year to a single facility or operation. The cone of influence will be determined by the use of ground water modeling software, such as MODFLOW, or a similar modeling program approved by Lower Platte North NRD. District GWEL network monitoring wells are not to be located on municipal well field property. After the establishment of a Level Three Area, if ground water levels should recover, two consecutive spring readings below the trigger levels are needed before the Ground Water Quantity Management Area could be placed as a Level Two or Level One management area.

Rule 1.2 Confined Aquifer Criteria

Confined aquifer management subareas are to be designated within the District when conditions, indicate a 10% or greater drop in the potentiometric-aquifer thickness. Assessment of percentage drop will be calculated utilizing the spring readings of District monitoring wells over a consecutive three (3) year period assessed against the 1987 baseline ground water levels or a more recent baseline year ground water level, adopted by the Board of Directors and revised in the Ground Water Management Rules and Regulations. When greater than 50% of the area within a subarea has reached or exceeded the trigger level, then a Level Three management area can be established. Assessment of the percentage of a sub-area will be determined by applying an area-weighting method to District GWEL wells. As more information becomes available subareas shall be further defined. Due to hydrologic considerations for point source ground water users, a sub-area can be defined as the cone of influence created from commercial / industrial, public water supply, and / or recovery well(s) that seek to collectively supply ground water equal to or greater than 300 acre feet per year to a single facility or operation. The cone of influence will be determined by the use of ground water modeling software, such as MODFLOW, or a similar modeling program approved by Lower Platte North NRD. District GWEL network monitoring wells are not to be located on municipal well field property. After the establishment of a Level Three Area, if ground water levels should recover, two consecutive spring readings below the trigger levels are needed before the Ground Water Quantity Management Area could be placed as a Level Two or Level One management area.

Rule 2 Continuation of Level One and Level Two Rules

A continuation of Level One and Two Rules as defined in Section E, Rules 1-6, Section I, Rules 2, 4, and 5, and Section J, Rules 3, and 6 shall apply.

Rule 3 Natural Resources District Certification

In Level Three management areas, operators of domestic, livestock, irrigation, municipal, and industrial well systems are required to obtain NRD certification by attending NRD education classes or by passing a take home test designed by LPNDRD and in agreement with applicable other agency input every four (4) years.

Rule 4 Adjust Acre-Inch Allocations

As required, the District will further reduce or adjust the acre-inch allocations based on considerations outlined in Section J, Rule 4.

Rule 5 Reduction of Irrigated Acres

As an alternative to Section K, Rule 4, the District may further require a reduction of irrigated acres. Except as permitted pursuant to subsections (4) through (6) of section 46-739, if annual rotation or reduction of irrigated acres is adopted for use of ground water for irrigation purposes in a management area, the nonuse of irrigated acres shall be a uniform percentage reduction of each landowner's irrigated acres within the management area or a subarea of the management area. Such uniform reduction may be adjusted for each landowner based upon crops grown on his or her land to reflect the varying consumptive requirements between crops.

Rule 6 Water Well Permit Required on New and Replacement Low Capacity Wells in Level 3 Ground Water Management Areas

In addition to water well permits required on all high capacity wells, a water well permit is required for each water well or for one or more categories of water wells designed and constructed to pump fifty gallons per minute or less, other than a domestic water well required for human needs as it relates to health, fire control, sanitation, and irrigation on less than one acre of land or used to water range livestock, in ground water management areas in which regulations have been imposed to control declining ground water levels.

Rule 7 Annual Water Use Reporting on New, Replacement, and Existing Low Capacity Wells in Level 3 Ground Water Management Areas

In addition to requiring annual water use reports on new, replacement, and existing high capacity wells in a Level three management area, annual water use reports shall be submitted to the District by January 31st of the following year on new, replacement, and existing low capacity wells for one or more categories of water wells designed and constructed to pump fifty gallons per minute or less, other than a domestic water well required for human needs as it relates to health, fire control, sanitation, and irrigation on less than one acre of land or used to water range livestock, in ground water management areas in which regulations have been imposed to control declining ground water levels.

Rule 8 Best Management Practices

Best management practices are required to conserve water and will be developed by the District prior to designation of the Area as a Level Three management area.

Section L Stay Management Areas

Rule 1 Temporary Stay on New Water Wells and Expansion of Irrigated Acres

The District shall impose an immediate temporary stay for a period of one hundred eighty days on the construction of any new water well and on any increase in the number of acres historically irrigated, without prior notice or hearing, upon adoption of a resolution by the Board finding that such temporary immediate stay is necessary due to declining ground water energy levels, potential over development of an aquifer, allow reasonable time for scientific studies to be conducted, or other discretionary factors determined by the Board. The District shall hold at least one public hearing on the matter within the District during such one hundred eighty days, with the notice of the hearing given as provided in section 46-743, prior to making a determination as to imposing a permanent stay or conditions in accordance with subsections (1) and (6) of section 46-739. Within forty-five days after a hearing pursuant to this subsection, the District shall decide whether to exempt from the immediate temporary stay the construction of water wells for which permits were issued prior to the date of the resolution commencing the stay but for which construction had not begun prior to such date. If construction of such water wells is allowed, all permits that were valid when the stay went into effect shall be extended by a time period equal to the length of the stay and such water wells shall otherwise be completed in accordance with section 46-738 and Section E, Rule 4 & 5 of these rules and regulations. Water wells listed in subsection (3) of section 46-714 and water wells of public water suppliers are exempt from this subsection.

Rule 2 Permanent Stay on New Water Wells and Expansion of Irrigated Acres

The District shall issue a permanent stay on the construction of new water wells and a stay on the expansion of irrigated acres in areas that are vulnerable to ground water level declines, potential over development of an aquifer, allow reasonable time for scientific studies to be conducted, or other discretionary factors determined by the Board. Scientific information will be used in determination of these areas, which will include, but not limited to, areal extent of the primary aquifer, type of aquifer ranging from confined to unconfined aquifers, saturated thickness, transmissivity, availability of alternative aquifers of sufficient water quality to allow for beneficial use, local recharge characteristics and rates from any water sources, current development of water use within the designated area and projected future water use, climatic conditions, and discretionary factors determined by the Board. A Stay management area can be issued on any Level One, Two or Three management areas.

Rule 3 Review of Permanent Stay Management Area

The District shall conduct scientific studies, reviews and utilize other information available to determine current and future hydrogeologic conditions and economic factors of management areas within the District. If review of new information as outlined in Section L, Rule 3 and other relevant information indicates that a permanent stay management area could be opened to limited development or disbanded, the District shall hold a public hearing in accordance with 46-743 and issue an order as outlined in 46-744.

Rule 4 Natural Resources District Certification

In Stay management areas, operators of domestic, livestock, irrigation, municipal, and industrial well systems are required to obtain NRD certification by attending NRD education classes or by passing a take home test designed by LPNNRD and in agreement with applicable other agency input every four (4) years.

Rule 5 Water Well Variance and Water Well Permit Required on High and Low Capacity Wells in Stay Management Areas

(1) The District will require that a water well variance and water well permit be obtained for each new high capacity well prior to construction in a Stay management area.

(2) The District shall by rule and regulation require that a water well variance and water well permit be obtained for each new water well or for one or more categories of water wells designed and constructed to pump fifty gallons per minute or less, other than a domestic water well required for human needs as it relates to health, fire control, sanitation, and irrigation on less than one acre of land or used to water range livestock, in ground water management areas in which regulations have been imposed to control declining ground water levels.

Rule 6 Transport of Ground Water in a Stay Management Area

Whenever the District has closed all or part of the District to the issuance of additional water well permits or expansion of irrigated acres, ground water withdrawn outside the affected area shall not be transported for use inside such area unless (a) such withdrawal and transport began before the affected area was closed to the issuance of additional water well permits or expansion of irrigated acres, (b) the water is used solely for domestic purposes and irrigation on less than one acre of land, (c) such withdrawal and transport is approved in advance by the District and if the water is withdrawn from another natural resources district, that neighboring district must also approve, or (d) if a proposed withdrawal and transport of water is intended for municipal purposes, the District shall approve the withdrawal and transport of ground water into the affected area when a public water supplier providing water for municipal purposes receives a permit from the Department of Natural Resources pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act.

Rule 7 Variance Application to Construct Water Well and/or Expansion of Irrigated Acres

The District shall establish variance procedures to address requests for new water wells and the expansion of irrigated acres in portions of the District designed as temporary or permanent Stay management areas. A variance request is required on or after the effective date of a stay management area and prior to any expansion in water use or before the application for a new water well permit.

(1) A non-refundable \$75.00 filing fee payable to the District is required for each variance application.

(2) An Expanded Water Use variance or New Water Well variance is not required for test holes or temporary dewatering wells (less than 30 days).

(3) If expansion of water use could result in existing wells to enlarge their cones of influence (cones of depression) to now overlap into a District Stay management area, an

Expanded Water Use Variance will now be required.

(4) If a new water well is the only water source for any expanded water use, then use the District's 'New Water Well Variance' form instead of the 'Expanded Water Use Variance' form.

(5) If a new water well and another water source, such as surface water or reuse water, will be used then the applicant will need to fill out both a variance request for a new water well and expanded water use, but the fee shall remain at \$75.00.

(6) An aerial photograph with markings to show the location of the water source(s) and the location of where the water is to be used, shall be submitted with the variance request form.

(7) If reuse water is one of the water sources, the applicant must submit the requested information on the variance request. Irrigation water by itself can not be credited as reuse water for another water user.

(8) All variance applications must include name and address of the applicant, proposed use of the water, location of water use, water sources such as ground water, surface water or reuse water, any offset water use such as the retiring of irrigated acres in the same sub-area, signature of applicant, and applications for a variance request for domestic, livestock, irrigation, municipal and/or industrial use must have an NRD certified operator listed on the variance request form. The operator will be the person who shall control the operation of the domestic, livestock, irrigation, municipal and/or industrial well for which the variance request is being made.

(9) The District shall designate different classes of variances based on the well pumping capacity in gallons per minute, number of acres being irrigated, or expected total annual water use.

(a) Class one variance is required on all low capacity wells, which pump fifty gallons per minute or less in a Stay management areas. Exceptions are for domestic water wells required for human needs as it relates to health, fire control, sanitation, and irrigation on less than one acre of land or used to water range livestock.

(b) Class two variance is required in a Stay management area for all proposed high capacity wells that will pump greater than fifty gallons per minute with an expected total annual water use of less than or equal to one hundred and fifty acre feet per year, or expansion of irrigated acres less than or equal to one hundred and sixty acres.

(c) Class three variance is required on all high capacity wells that will pump greater than fifty gallons per minute with an expected total annual water use greater than one hundred and fifty acre feet per year but less than three hundred acre feet per year, or expansion of irrigated acres on land greater than one hundred and sixty acres. Applicant must submit information as listed in Section L, Rule 8 plus additional information of all registered wells, test holes, and all surface water rights in a two mile radius of the proposed water use as specified on the variance request form. In addition to the seventy five dollar variance filing fee, the applicant must submit a two hundred and fifty dollar fee for District review.

(d) Class four variance is required on all high capacity wells that pump greater than fifty gallons per minute with an expected total annual water use equal to or greater than 300 acre feet per year, regardless of the number of irrigated acres. Class four variance requests are required for point source ground water users that seek to collectively supply ground water equal to or greater than 300 acre feet per year to a single facility or operation. Applicant must submit information listed in Section L, Rule 8 plus additional information of all registered wells, test holes, and all surface

water rights in a five mile radius of the proposed water use, perform an District approved aquifer pump test, and perform a ground water model using MODFLOW software or a similar software program approved by the District as specified on the water well permit application form. In addition to the seventy five dollar variance filing fee, the applicant must submit a five hundred dollar fee for District review.

(e) If variance request for a new water well is conditionally approved or fully approved by the District, the applicant will still need to apply for and received District approval for a water well permit before construction of the well. Fee for District review of Class three and Class four new water well permits in Stay management areas will be waived for payments received for District approved Class three and Class four new well variances.

(f) For purposes of determining the capacity in gallons per minute and expected total annual water use, the District may consider other water sources that the new well will be commingled, combined, clustered, or joined with in making such calculations (e.g., if the use previously had a Class three status and the new well increases the expected total annual water use to be equal to or greater than 300 acre feet per year, the application will be treated as a Class four variance request).

Rule 8 Review of Variance Application

District review of any variance request will be based, in part, on a point system evaluation, which will consider offsets such as retiring other acres or water use, or the reuse of water from industries, municipalities or other potential sources where water can be reused. District review will also be based on discretionary factors, including but not limited to, whether the variance request would promote the health and welfare of the District by contributing to the conservation, protection, development, and sound management of natural resources in the District.

Rule 9 Conditional Approval of Variance Application

(1) For an expanded water use variance from an existing water source, the landowner has 90 days following conditional approval by the Board to update County assessor records, submit records to the Department of Natural Resources (DNR) to update DNR well registration data base for new irrigated acres, and comply with any additional conditions required by the District. Conditional approval will expire in 90 days from date of issuance by the LPNNRD Board if these conditions are not met.

(2) For a new water well variance, the landowner or well owner has 90 days following conditional approval by the Board to submit a LPNNRD water well permit form to the District, and comply with any additional conditions required by the District. Information listed on the water well permit must agree with information listed on the new water variance or the variance request and well permit will be denied. Conditional approval will expire in 90 days from date of issuance by the LPNNRD Board if these conditions are not met.

(3) When the conditions of the variance have been satisfied and approved by the LPNNRD within 90 days of issuance, then the ‘conditionally approved variance’ shall become an ‘approved variance’. If these conditions have not been met, then the ‘conditionally approved variance’ will lapse and the landowner will need to submit a new variance request.

(4) When an ‘approved variance’ is granted by the District, then water users must install a flow meter and report water pumped annually in acre-inches per year or total gallons per year on LPNNRD approved forms by January 31st of each following year.

Rule 10 Approved Variance and Annual Review by the District

(1) For an approved expanded water use variance from an existing water source, additional water use must be put to use within a one-year period following the District’s approval of the variance and comply with any additional conditions required by the District. The District may grant an exception for good cause shown, such as abundant rainfall received on new or expanded irrigated acres when actual irrigation would not be necessary.

(2) For an approved new water well variance and approved new water well permit, the landowner has 90 days following the completion of the new well to update County assessor records, submit well registration to DNR to update the well registration data base, comply with Section E, Rule 4 and 5, and comply with any additional conditions required by the District. The District may grant an exception for good cause shown.

(3) When an approved variance is granted by the District, then water users must install a flow meter and report water pumped annually in acre-inches per year or total gallons per year on LPNNRD approved forms by January 31st of each following year and comply with any additional conditions required by the District.

(4) The approved variance will be subject to annual renewal by the District. If the District believes the variance should not be renewed, the District will inform the landowner with at least a 45 day notice stating the intentions of the District and allowing the landowner to request a hearing before the Board of Directors within that time limit.

Rule 11 Cancellation of Approved Variance

The District may cancel or void an approved variance at any time if the Board finds violation of the District’s rules and regulations, including the failure to submit annual reporting information required by Section L, Rule 9(4) or Rule 10(3).

Rule 12 Variance and/or Water Well Permit for Sub-irrigated Ground

If loss of sub-irrigation should occur on ground certified by the District as sub-irrigated, the landowner and/or operator may apply to the District for a variance request and/or water well permit without the required offsets to install an irrigation well provided that water will be applied to the same location, field, parcel, tract or legal description, the same number of acres and the crop type must remain the same as was previous certified as sub-irrigated. Sub-irrigated ground is non-transferrable.

Section M Stay Management with Limited Development in Hydrologically Connected Areas

Rule 1 Hydrologically Connected Stay Management Area and Number of Acres for Limited Development

In accordance with LB483, the District hereby declares a Stay Management Area with limited development in the areas of the District that were preliminary declared Fully Appropriated on December 16, 2008 by the Nebraska Department of Natural Resources as hydrologically connected ground water and surface water of the Lower Platte Basin. The District shall limit development of new irrigated acres with a goal of 2,500 acres per year or a total of 10,000 acres in the hydrologically connected area over a four year period from January 1, 2009 to December 31, 2012. The hydrologically connected areas within Lower Platte North NRD are on file in the District office.

Rule 2 Hydrologically Connected Portions of District Divided into Three Regions

The District hereby divides the hydrologically connected area as defined by the Nebraska Department of Natural Resources into three regions within the District in order to balance the limited development of new irrigated acres over a four-year period. These regions shall be the Shell Creek watershed, the Platte River Valley, and the Todd Valley, which shall include portions of the Weston Subarea.

Rule 3 Water Well Variance and Water Well Permit Required on New High Capacity Wells

The District will require that a water well variance and water well permit be obtained for each new high capacity well prior to construction in the Hydrologically Connected Stay management area with limited development.

Rule 4 Variance Request and Ranking Criteria for Limited Development of Additional Irrigated Acres

(1) Landowners and/or operators wanting to expand the number of irrigated acres in the hydrologically connected area must first submit to the District a LPNNRD variance request form for a new water well and/or a LPNNRD variance request form for the expansion of irrigated acres from an existing water source along with any financial documentation by September 15, 2009 for calendar year 2009; also by September 15, 2009 for calendar year 2010; by September 15, 2010 for calendar year 2011; and by September 15, 2011 for calendar year 2012.

(2) The District shall develop a criteria ranking system to evaluate each variance request which shall include: financial documentation and actions of the landowner taken from the Fall of 2007 and prior to December 16, 2008, land class, distance of land to be irrigated from hydrologically connected surface water, saturated thickness of the aquifer underlying the water source of the new land to be irrigated, other criteria that the District deems appropriate.

Rule 5 Selection Process for Limited Development of Additional Irrigated Acres

(1) At the Water Committee meeting nearest in date following the September 15th deadline for submission of variance request forms and supporting documentation, the Water

Committee members shall prioritize and make recommendations as to which land shall be allowed to expand irrigated acres at the October Board meeting of the District.

(2) The day following the Water Committee meeting, landowners and/or operators shall be informed of their ranking status and the criteria by which that ranking was determined. Landowners and/or operators requesting a reevaluation of their ranking status must provide any additional information to the District office by the close of office hours on the Friday preceding the October LPNNRD Board meeting.

(3) At the October LPNNRD Board meeting for 2009, 2010, and 2011, the Board shall review and assign variance requests for a limited number of new irrigated acres for the hydrologically connected area as outlined in Section M, Rule 1 & 2. Specifically at the October 2009 Board meeting, approximately 2,500 acres of irrigation development shall be assigned 'conditionally approved' to take effect on October 15, 2009 with an additional 2,500 acres to be assigned to take effect on January 1, 2010. For October Board meetings in 2010, and 2011, approximately 2,500 acres of irrigation development shall be 'conditionally approved' to take effect on January 1st for each of the respective following years.

Rule 6 Conditional Approval of Variance Applications Issued on October 15, 2009, January 1, 2010, January 1, 2011, and January 1, 2012

(1) For an expanded water use variance, the landowner has 90 days following conditional approval on October 15, 2009, January 1, 2010, January 1, 2011, or January 1, 2012 to update County assessor records, submit records to the Department of Natural Resources (DNR) to update DNR well registration data base for new irrigated acres, and comply with any additional conditions required by the District. Conditional approval will expire in 90 days from date of issuance on October 15, 2009, January 1, 2010, January 1, 2011, or January 1, 2012 if these conditions are not met.

(2) For a new water well variance and new water well permit, the landowner or well owner has 90 days following conditional approval on October 15, 2009, January 1, 2010, January 1, 2011, or January 1, 2012 to submit a LPNNRD water well permit form to the District and comply with any additional conditions required by the District. Information listed on the water well permit must agree with information listed on the assigned variance request from the previous October Board meeting or the variance request and well permit will be denied. Conditional approval will expire in 90 days from date of issuance of October 15, 2009, January 1, 2010, January 1, 2011, or January 1, 2012 if these conditions are not met.

(3) When the conditions of the variance have been satisfied and approved by the LPNNRD within 90 days of issuance, then the 'conditionally approved variance' shall become an 'approved variance'. If these conditions have not been met, then the 'conditionally approved variance' will lapse and the landowner will need to submit a new variance request.

(4) When an 'approved variance' is granted by the District, then water users must install a flow meter and report water pumped annually in acre-inches per year or total gallons per year on LPNNRD approved forms by January 31st of each following year and comply with any additional conditions required by the District.

Rule 7 Cancellation of Approved Variance

The District may cancel or void an approved variance at any time if the Board finds falsification of financial or other documentation submitted as part of the variance request; failure of the landowner and/or operator to follow the irrigation ranking criteria as submitted on the District's variance form, and/or well permit; violation of the District's rules and regulations, including the failure to submit annual reporting information required by Section L, Rule 9(4) or Rule 10(3) and Section M, Rule 6(4).

Rule 8 Annual Extension of Hydrologically Connected Stay Management Areas

Upon annual review and Board motion, the District may extend the rules of Section M in accord with 46-714(12) beyond the initial four year time frame.

Rule 9 Continuation of Section M Rules

A continuation of Stay Management Area Rules as defined in Section L, Rule 4, 6, 8, 10, and 12, shall apply.

Section N Ground Water Transfer

Rule 1 Transfer Off Overlaying Land

(1) A permit is required for the transfer of ground water off overlaying land for any purpose. Upon receipt of an application for the transfer of ground water off overlaying land, the District shall provide notice of the application by publishing it on the agenda for the next regularly scheduled Water Committee meeting. Any affected party may object to the transfer of ground water by filing written objections, specifically stating the grounds for such objection, in the office of the District on or before the second regularly scheduled Board meeting following publication of notice in the Water Committee's agenda. Late objections will not be considered. Upon the filing of such objections or on its own initiative, the District shall conduct a preliminary investigation to determine if the withdrawal, transfer, and use of ground water is consistent with the requirements of subsection (2) of this section and all rules and regulations of the District. Following the preliminary investigation, if the District has reason to believe that the withdrawal, transfer, and use is consistent with all rules and regulations of the District, but may not comply with one or more other requirements of subsection (2) of this section, the District shall request that the Department of Natural Resources hold a hearing on such transfer.

(2) Any person who withdraws ground water for agricultural purposes, or for any purpose pursuant to a ground water remediation plan as required under the Environmental Protection Act, including the providing of water for domestic purposes, from aquifers located within the District may transfer the use of the ground water off the overlying land if the ground water is put to a reasonable and beneficial use within the State of Nebraska and is used for an agricultural purpose, or for any purpose pursuant to a ground water remediation plan as required under the Environmental Protection Act, including the providing of water for domestic purposes, after transfer, and if such withdrawal, transfer, and use (a) will not significantly adversely affect any other water user, (b) is consistent with all applicable statutes and District rules and regulations, and (c) is in the public interest.

Rule 2 Transfer Off Overlying Land for Domestic Use

Any person other than a public water supplier as defined in section 46-638 may transfer ground water off the overlying land for the purpose of domestic use of ground water required for human needs as it relates to health, fire control, sanitation, and irrigation on less than one acre of land if

(1) the location and use of the water well and any pipeline or other means of conveyance are authorized by easement or other adequate property interest on all land on which such water well and pipeline or other means of conveyance are located and

(2) the capacity of the water well or series of water wells connected together for such purposes does not exceed fifty gallons per minute. Such person may be liable for damages for interference with the use of ground water by another person only if the withdrawal of ground water for such domestic use unreasonably causes harm to another person through the lowering of the water table or by reducing artesian pressure.

Rule 3 Transfer Off Overlying Land for Environmental or Recreational Benefits

(1) Any person intending to withdraw ground water from any water well located in the State of Nebraska, transport that water off the overlying land, and use it to augment water

supplies in any Nebraska wetland or natural stream for the purpose of benefitting fish or wildlife or producing other environmental or recreational benefits may do so only if the District in which the water well is or would be located allows withdrawals and transport for such purposes and only after applying for and obtaining a permit from the District. An application for any such permit shall be accompanied by a non-refundable fee of fifty dollars payable to the District. Such permit shall be in addition to any permit required pursuant to section 46-252 or 46-735 or subdivision (1)(k) of section 46-739.

(2) Prior to taking action on an application pursuant to this section, the District shall provide an opportunity for public comment on such application at a regular or special board meeting for which advance published notice of the meeting and the agenda therefor have been given consistent with the Open Meetings Act.

(3) In determining whether to grant a permit under this section, the Board of Directors of the District shall consider: (a) Whether the proposed use is a beneficial use of ground water; (b) The availability to the applicant of alternative sources of surface water or ground water for the proposed withdrawal, transport, and use; (c) Any negative effect of the proposed withdrawal, transport, and use on ground water supplies needed to meet present or reasonable future demands for water in the area of the proposed withdrawal, transport, and use, to comply with any interstate compact or decree, or to fulfill the provisions of any other formal state contract or agreement; (d) Any negative effect of the proposed withdrawal, transport, and use on surface water supplies needed to meet present or reasonable future demands for water within the state, to comply with any interstate compact or decree, or to fulfill the provisions of any other formal state contract or agreement; (e) Any adverse environmental effect of the proposed withdrawal, transport, and use of the ground water; (f) The cumulative effects of the proposed withdrawal, transport, and use relative to the matters listed in subdivisions (3)(c) through (e) of this section when considered in conjunction with all other withdrawals, transports, and uses subject to this section; (g) Whether the proposed withdrawal, transport, and use is consistent with the District's ground water quantity and quality management plan and with any integrated management plan previously adopted or being considered for adoption in accordance with sections 46-713 to 46-719; and (h) Any other factors consistent with the purposes of this section which the Board of Directors of the District deems relevant to protect the interests of the state and its citizens.

(4) Issuance of a permit shall be conditioned on the applicant's compliance with the rules and regulations of the natural resources district from which the water is to be withdrawn and, if the location where the water is to be used to produce the intended benefits is in a different natural resources district, with the rules and regulations of that natural resources district. The Board of Directors of the District shall include such reasonable conditions on the proposed withdrawal, transport, and use as it deems necessary to carry out the purposes of this section.

(5) The applicant shall be required to provide access to his or her property at reasonable times for purposes of inspection by officials of any district where the water is to be withdrawn or to be used.

Section O Agricultural Research Facilities and Municipal Wellfields

Rule 1 Agricultural Research Facilities and Municipal Wellfields

Agricultural Research Facilities and Municipal Wellfields within the District may apply to the District for a modification of the individual requirements within the ground water management areas that specifically affects the land they own or operate. Such requests will be reviewed on a case-by-case basis by the District.

Section P Special Studies and Investigations

Rule 1 Special Studies and Investigations

The Lower Platte North NRD shall have the authority to conduct investigations and cooperate or contract with agencies of the United States, agencies or political subdivisions of this state, public or private corporations, or any association or individual on any matter relevant to the administration of the Nebraska Groundwater Management and Protection Act or Lower Platte North NRD Ground Water Management Area rules and regulations. This authority will be exercised in the sole discretion of the Board of Directors of the District.

Section Q Appeal Process

Rule 1 Appeal Process

Any person aggrieved by any order of the District issued pursuant to the District's Management Area Rules and Regulations may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.