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# **RULES and REGULATIONS**

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## Middle Republican NRD Ground Water Management Area

Established July 1, 1998

Effective ~~July 1, 2025~~ July 1, 2026

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**Ground Water Management Area**

Approved	May 18, 1998
Effective	July 1, 1998
Revised	July 1, 1999
Revised	July 1, 2000
Revised	November 17, 2003

**Ground Water Management Area with accompanying Integrated Management Plan**

Effective	January 1, 2005	Hearing	October 6, 2004
Effective	October 3, 2006	Hearing	June 13, 2006
Effective	December 1, 2006	Hearing	September 12, 2006
Effective	February 1, 2008	Hearing	August 30, 2007
Effective	March 16, 2009	Hearing	January 13, 2009
Effective	April 10, 2012	Hearing	January 10, 2012
Effective	August 1, 2012	Hearing	June 12, 2012
Effective	March 1, 2013	Hearing	January 8, 2013
Effective	March 10, 2014	Hearing	February 11, 2014
Effective	February 9, 2015	Hearing	January 13, 2015
Effective	April 6, 2015	Hearing	March 10, 2015
Effective	November 9, 2015	Hearing	November 10, 2015
Effective	June 5, 2017	Hearing	May 9, 2017
Effective	January 1, 2018	Hearing	November 14, 2017
Effective	April 1, 2020	Hearing	March 10, 2020
Effective	March 1, 2021	Hearing	February 9, 2021
Effective	November 1, 2022	Hearing	October 11, 2022
Effective	January 1, 2025	Hearing	November 12, 2024
Effective	July 1, 2025	Hearing	May 13, 2025

## PREFACE

### Legislative Intent

The Legislature finds that ownership of water is held by the state for the benefit of its citizens, that ground water is one of the most valuable natural resources in the state, and that an adequate supply of ground water is essential to the general welfare of the citizens of this state and to the present and future development of agriculture in the state. The Legislature recognizes its duty to define broad policy goals concerning the utilization and management of ground water and to ensure local implementation of those goals. The Legislature also finds that natural resources districts have the legal authority to regulate certain activities and, except as otherwise specifically provided by statute, as local entities are the preferred regulators of activities which may contribute to ground water depletion.

Every landowner shall be entitled to a reasonable and beneficial use of the ground water underlying his or her land subject to the provisions of Chapter 46, article 6, and the Nebraska Ground Water Management and Protection Act and the correlative rights of other landowners when the ground water supply is insufficient for all users. The Legislature determines that the goal shall be to extend ground water reservoir life to the greatest extent practicable consistent with beneficial use of the ground water and best management practices.

The Legislature further recognizes and declares that the management, protection, and conservation of ground water and the beneficial use thereof are essential to the economic prosperity and future well-being of the state and that the public interest demands procedures for the implementation of management practices to conserve and protect ground water supplies and to prevent the contamination or inefficient or improper use thereof.

The Legislature recognizes the need to provide for orderly management systems in areas where management of ground water is necessary to achieve locally determined ground water management objectives and where available data, evidence, or other information indicates that present or potential ground water conditions, including sub-irrigation conditions, require the designation of areas with special regulation of development and use.

The Legislature recognizes that ground water use or surface water use in one natural resources district may have adverse effects on water supplies in another district or in an adjoining state. The Legislature intends and expects that each natural resources district within which water use is causing external impacts will accept responsibility for ground water management in accordance with the Nebraska Ground Water Management and Protection Act in the same manner and to the same extent as if the conflicts between ground water use and surface water use were contained within the district.

### Legislative Findings

The Legislature finds that:

- (1) The management, conservation, and beneficial use of hydrologically connected ground water and surface water are essential to the continued economic prosperity and well-being of the state, including the present and future development of agriculture in the state;
- (2) Hydrologically connected ground water and surface water may need to be managed differently from unconnected ground water and surface water in order to permit equity among water users and to optimize the beneficial use of interrelated ground water and surface water supplies;
- (3) Natural resources districts already have significant legal authority to regulate activities which contribute to declines in ground water levels and to nonpoint source contamination of ground water and are the preferred entities to regulate, through ground water management areas, ground water related activities which are contributing to or are, in the reasonably foreseeable future, likely to contribute to conflicts between ground water users and surface water appropriators or which may be necessary in order to resolve disputes over interstate compacts or decrees, or to carry out the provisions of other formal state contracts or agreements;
- (4) The Department of Natural Resources is responsible for regulation of surface water resources and local surface water project sponsors are responsible for much of the structured irrigation utilizing surface water supplies, and these entities should be responsible for regulation of surface water related activities which contribute to such conflicts or provide opportunities for such dispute resolution;
- (5) An Interrelated Water Review Board is needed to resolve any conflicts between the department and the involved natural resources districts concerning the content, implementation, or enforcement of integrated management plans for fully appropriated and over appropriated river basins, subbasins, and reaches; and
- (6) All involved natural resources districts, the department, and surface water project sponsors should cooperate and collaborate on the identification and implementation of management solutions to such conflicts or provide opportunities for mitigation or elimination of such disputes or difficulties.

The Legislature further finds:

- (1) The levels of nitrate nitrogen and other contaminants in ground water in certain areas of the state are increasing;
- (2) Long-term solutions should be implemented, and efforts should be made to prevent the levels of ground water contaminants from becoming too high and to reduce high levels sufficiently to eliminate health hazards;
- (3) Agriculture has been very productive and should continue to be an important industry to the State of Nebraska;

- (4) Natural resources districts have the legal authority to regulate certain activities and, as local entities, are the preferred regulators of activities which may contribute to ground water contamination in both urban and rural areas;
- (5) The Department of Environmental Quality should be given authority to regulate sources of contamination when necessary to prevent serious deterioration of ground water quality;
- (6) The powers given to districts and the Department of Environmental Quality should be used to stabilize, reduce, and prevent the increase or spread of ground water contamination; and
- (7) There is a need to provide for the orderly management of ground water quality in areas where available data, evidence, and other information indicate that present or potential ground water conditions require the designation of such areas as management areas.

**AUTHORITY** – These rules and regulations are adopted pursuant to the authority granted in the Nebraska Ground Water Management and Protection Act and the Nebraska Chemigation Act (“Act”).

**PURPOSE** – The purposes of the management area are (1) to protect ground water quantity; and (2) the prevention or resolution of conflicts between users of ground water and appropriators of surface water, which ground water and surface water are hydrologically connected through implementation of controls to meet the goals and objectives identified in the Integrated Management Plan for the Middle Republican Natural Resources District and the Nebraska Department of [Water, Energy, and Environment](#)~~Natural Resources~~.

## CHAPTER 1 – DEFINITIONS

### RULE 1-1 DEFINITIONS

General Rule of Interpretation: In accordance with the legislative function of rulemaking and the broad rulemaking authority granted to Natural Resource Districts under [state law Neb. Rev. Stat. § 46-707](#), any definition derived from a like statutory definition that is adopted by the District as a defined term for these Rules shall conform with the like statutory definition as it exists upon adoption of these rules and as it may be later amended by the Legislature. A definition set forth in these rules derived from a like statutory definition that is superseded by any subsequent act of the Legislature shall be invalidated and automatically replaced by the new statutory definition, unless otherwise amended by the District.

**Commented [DB1]:** Because your rule making authority is diffuse throughout the statutes, I just wanted to open this up to include all authority.

- 1-1.1 **Abandoned Water Well:** Means any water well (1) the use of which has been accomplished or permanently discontinued, (2) which has been decommissioned as described in the rules and regulations of the Department of Health and Human Services, and (3) for which the notice of abandonment required by subsection (2) of *Neb. Rev. Stat. § 46-602* has been filed with the Department of Natural Resources by the licensed water well contractor or licensed pump installation contractor who decommissioned the water well or by the water well owner if the owner decommissioned the water well. ~~*Neb. Rev. Stat. § 46-1204.01*~~.
- 1-1.2 **Act:** The Nebraska Ground Water Management and Protection Act. *Neb. Rev. Stat. § 46-701 et seq.*
- 1-1.3 **Active Well Status:** A water well which is in use and which is not an illegal water well. *Neb. Rev. Stat. § 46-1204.02*
- 1-1.4 **Additional Water Administration Year:** When water is needed for diversion at Guide Rock and the projected or actual irrigation supply is less than 130,000 acre feet of storage available for use in Harlan County Lake.
- 1-1.5 **Agricultural Operation:** A parcel or parcels of land in contiguous counties, constituting a cohesive management for farm agricultural purpose. This shall be regarded as located in the county in which the principle dwelling is situated, or if there is no dwelling thereon, it shall be regarded to be in the county in which the major portion of the land is located.
- 1-1.6 **Allocated Acres:** The specific number of Groundwater Certified Irrigated Acres that have been approved by the Board as eligible to be granted a Groundwater Allocation of ground water.
- 1-1.7 **Groundwater Allocation:** As it relates to groundwater use for irrigation purposes, means 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. ~~*Neb. Rev. Stat. § 46-706 (15)*~~
- 1-1.8 **Groundwater Allocation Period:** The number of years over which the Groundwater Allocation can be used.

1-1.9 **Animal Unit:** A unit of measurement for any livestock operation. For each type of livestock identified below, the number of animal units shall be the number of livestock in the livestock operation times the multiplier following that livestock type.

Slaughter/Feeder Cattle	1.0	Cow/calf pair	1.2
Dairy Cow	1.4	Swine >55 lbs	0.4
Swine <55 lbs	0.05	Horse	2.0
Chickens	0.01	Sheep	0.1

1-1.10 **Backflow Preventer-** An assembly, device or a construction practice that prohibits the backflow of water from the distribution piping into the water well. This includes but is not limited to check valves, curb stops, or air gaps.

1-1.11 **Backup Well:** Used in conjunction with a livestock operation well or an industrial well. A backup well cannot be used at the same time as the primary well or wells. A backup well is not subject to the increased spacing requirements of the District.

1-1.12 **Base Groundwater Allocation:** This amount, in acre-inches, is derived from dividing the cumulative Groundwater Allocation by the base Groundwater Allocation Period.

1-1.13 **Base Groundwater Allocation Period:** The number of crop years to which the cumulative Groundwater Allocation may be used.

1-1.14 **Board:** The elected Board of Directors of the Middle Republican Natural Resources District.

1-1.15 **Carryover:** Any unused portion of a Groundwater Allocation as set by the Board that can be carried forward to the subsequent Groundwater Allocation Period. Maximum carryover is equal to next base Groundwater Allocation.

1-1.16 **Cease and Desist Order:** Any order issued by the Board as a result of a violation of the District Rules or the Act, which requires a person to refrain from any activity that violates any District Rule, or any order which requires an affirmative action to remedy an ongoing violation.

1-1.17 **Certification:** The process whereby the beneficial uses of ground water for a regulated well is identified, recorded and approved by the District.

1-1.18 **Certified Water Use:** Beneficial uses of ground water for purposes other than irrigation identified by the District pursuant to rules adopted by the District. *Neb. Rev. Stat. § 46-706(31)*

1-1.19 **Certified Irrigated Acre:** The ~~number of~~ acres or portion of an acre that [the District] has approved for irrigation from ground water in accordance with law and with rules adopted by the District, ~~and Neb. Rev. Stat. § 46-706(30).~~

1-1.20 **Commercial Livestock Operation:** The feeding or holding of livestock in buildings, lots or pens which are not used for growing of crops or vegetation, but does not include the holding of cattle in calving operations for less than ninety (90) days per year and permitting by the Nebraska Department of ~~Water, Energy, and Environment~~ Environmental Quality is required.

1-1.21 **Commercial Livestock Operation Well:** A regulated well providing for the watering of animals in a "livestock operation" or "confined livestock operation" and for which a livestock waste control facility permitted by the Nebraska Department of ~~Water, Energy, and Environment~~ Environmental Quality is required.

1-1.22 **Common Management:** An agreement for the management and operation of the lands to be Pooled. This agreement shall provide who will operate the farm including the management, handling, directing and controlling of the wells and Groundwater Certified Irrigated Acres listed in the Pooling Agreement.

1-1.22.1 Examples of common management include, but are not limited to: landlord/tenant leases, family member ownerships, and individual/entity (corporation, limited liability corporation, partnership) ownership.

1-1.22.2 Examples of documents providing evidence of common management are defined as, but not limited to: FSA records, lease agreements (if a year-to-year lease, NRD office would need the lease each year due to the agreement being the current Groundwater Allocation Period), minutes, stock certificates, corporate ledgers or certification from the Secretary of State showing matching parties and addresses involved for lands involved in the Pool.

1-1.23 **Compact Call Year:** A year in which the Department of ~~Water, Energy, and Environment's~~ Natural Resource's forecast procedures outlined in Section VIII.B.2.b of the IMP indicate the potential for non-compliance if sufficient surface water and ground water controls and/or management actions are not taken. Compact Call Year stream flow

administration will be conducted by the Department in a manner consistent with the IMP. Pursuant to Article VI of the Republican River Compact, diversions into the Courtland Canal for beneficial use in the State of Kansas will not be subject to the Compact Call.

- 1-1.24 **Confined Livestock Operation:** A totally roofed building, which may be open-sided or completely enclosed on the sides, wherein animals or poultry are housed over solid concrete or dirt floors or slatted floors over pits or manure collection areas in pens, stalls or cages, with or without bedding materials and mechanical ventilations.
- 1-1.25 **Consumptive Use:** Is that amount of water that is consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use are lawfully made. ~~Neb. Rev. Stat. § 46-706(20)~~
- 1-1.26 **Critical Unit(s):** An area(s) designated by the District where circumstances require additional controls.
- 1-1.27 **Cumulative Groundwater Allocation:** Base Groundwater Allocation times base Groundwater Allocation Period.
- 1-1.28 **Decommissioned Well:** When used in relation to a water well, shall mean the act of filling, sealing and plugging a water well in accordance with the rules and regulations of the Department of Natural Resources. ~~Neb. Rev. Stat. § 46-1206.04~~
- 1-1.29 **Dewatering Well:** Means a well constructed and used solely for the purpose of lowering the ground water table elevation. ~~Neb. Rev. Stat. § 46-706(30)~~
- 1-1.30 **District, NRD, MRNRD:** The Middle Republican Natural Resources District, which encompasses most of Frontier County, all of Hayes, Hitchcock, Red Willow Counties and the lower third of Lincoln County, in southwest Nebraska. The District falls in the middle of the Republican River Basin.
- 1-1.31 **District Staff:** Any employee of the Middle Republican Natural Resources District.
- 1-1.32 **Flow Meter:** A device, approved by the District, to measure the quantity of ground water pumped, withdrawn, or taken from a water well.
- 1-1.33 **Good Cause Shown:** A reasonable justification for granting a variance to consumptively use water that would otherwise be prohibited by rule or regulation and which the District reasonably and in good faith believes will provide an economic, environmental, social or public health and safety benefit that is equal to or greater than the benefit resulting from the prohibition from which a variance is sought. ~~Neb. Rev. Stat. § 46-706(23)~~
- 1-1.34 **Ground Water:** Water, which occurs in or moves, seeps, filters, or percolates through the ground under the surface of the land. ~~Neb. Rev. Stat. § 46-706(2)~~
- 1-1.35 **Historic Consumptive Use:** Is that amount of water that has previously been consumed ~~under appropriate and reasonably efficient practices to accomplish without waste the purposes~~ for which the appropriation or other legally permitted use was lawfully made. ~~Neb. Rev. Stat. § 46-706(24)~~
- 1-1.36 **History of Use:** History of Use can be adjusted for enrollment in incentive programs and other extenuating circumstances that may affect the use of those acres. History of Use is the actual use of the Groundwater Allocation on Groundwater Certified Irrigated Acres.
- 1-1.37 **Illegal Water Well:** Means: ~~(a) any water well operated or constructed without or in violation of a permit required by the Nebraska Ground Water Management and Protection 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 Neb. Rev. Stat. § 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.~~ ~~Neb. Rev. Stat. § 46-706(5).~~
- 1-1.38 **Inactive Status Water Well:** 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:
  - (1) The water well does not allow impairment of the water quality in the water well or of the ground water encountered by the water well;
  - (2) The top of the water well or water well casing has a water-tight welded or threaded cover or some other water-tight means to prevent its removal without the use of equipment or tools to prevent unauthorized access,

Commented [DB2]: If it was "historic" that doesn't mean it was done appropriately or reasonably . . .

Commented [DB3]: The first and second sentences seem to contradict one another . . . Isn't it just the last sentence for the definition?

to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes or contaminants into the water well;

(3) All entrances and discharge piping to the water well are effectively sealed to prevent the entrance of contaminants; and

(4) 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. [Neb. Rev. Stat. § 46-1207.02.](#)

- 1-1.39 **Incentive Program:** A program that may require agreements or covenants concerning the use of land or water as necessary to produce the benefits for which the program is established.
- 1-1.40 **Industrial Well:** A well that provides ground water for manufacturing, commercial, and power generation; uses of water and commercial use includes, but is not limited to, maintenance of the turf of a golf course. [Neb. Rev. Stat. § 46-677\(2\)](#)
- 1-1.41 **Integrated Management Plan (IMP):** A plan to manage interconnected Ground Water and Surface Water resources in a basin, sub-basin or reach, as set forth in [the Act, Neb. Rev. Stat. § 46-715 thru 46-719.](#)
- 1-1.42 **Late Permit:** A permit applied for after construction has commenced on a regulated water well, [pursuant to Neb. Rev. Stat. § 46-735.](#)
- 1-1.43 **Livestock Well:** A water well not classified as a Confined Livestock operation well, but which is used for the watering of (1) livestock, poultry, farm and domestic animals used in operating a farm or (2) domestic livestock as related to normal farm and ranch operations or (3) range livestock or stock use on a farm or ranch.
- 1-1.44 **Management Actions:** Includes, but not limited to, ground or surface water leases, ground or surface purchases, augmentation projects or any other program or project that enhances stream flow in a Compact Call Year.
- 1-1.45 **N-CORPE:** "N-CORPE" is the acronym for the "Nebraska Cooperative Republican Platte Enhancement Project," a political subdivision of the State of Nebraska, formed under an Interlocal Cooperation Agreement between the MRNRD, Lower Republican Natural Resources District, Upper Republican Natural Resources District, and Twin Platte Natural Resources District. N-CORPE's primary project consists of pumping groundwater from wells located on land that was historically used for irrigation, and which is situated within both the MRNRD and the Twin Platte Natural Resources Districts, for use in offsets for compliance with integrated management plans and augmentation of surface water flows for compliance with the Republican River Compact and the Platte River Recovery Implementation Program (collectively, the "N-CORPE Project"). The majority of the N-CORPE Project lies on land within the boundaries of MRNRD and a portion of the water pumped for the N-CORPE Project is from wells located on land within the boundaries of MRNRD. Additional water is pumped from wells located in the Twin Platte Natural Resources District and such wells may contribute water for augmentation in the Republican River basin. Similarly, water pumped from wells located in the MRNRD may contribute water for augmentation in the Platte River basin. The wells within the boundaries of MRNRD were historically used for irrigation of crops on 10,433.6 acres, which acres have been permanently decertified for purposes of irrigation and reassigned to non-irrigation use by the MRNRD.
- 1-1.46 **Operator:** A natural person who is in general control of the farming operation. Also, an individual, entity or joint operation who is determined as being in general control of the farming operations during that Groundwater Allocation Period.
- 1-1.47 **Owner:** An individual or entity who has legal ownership of farmland.
- 1-1.48 **Permit to Construct a Well:** A [written authorization document](#) that must be obtained from the District in accordance with Rule 3-1 before construction of a regulated water well may be commenced in the management area pursuant to [the Act, Neb. Rev. Stat. § 46-735.](#)
- 1-1.49 **Person:** A natural person and/or operator, 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. [Neb. Rev. Stat. § 46-706\(1\)](#)
- 1-1.50 **Pool, Pooling, Pooled:** The common management of all or part of the Groundwater Certified Irrigated Acres and the associated Groundwater Allocation by two or more Persons.

- 1-1.51 **Platte Sub Area:** That portion of the Middle Republican NRD that is located outside the boundaries of the Republican River Basin as delineated for the Republican River Compact.
- 1-1.52 **Primary Well:** When used with regard to Confined Livestock operation or industrial wells, shall mean the well or wells used for the certified use on a daily or other routine basis.
- 1-1.53 **Public Water System:** A system for providing the public with water for human consumption, as further defined in Nebraska Department of Health and Human Services, Title 179 Public Water Systems, Chapter 2 Public Water Supply Systems.
- 1-1.54 **Rapid Response Area:** An area designated with a stream flow depletion factor of ten (10) percent or more in a two (2) year period or depletion factor of ten (10) percent or more in a five (5) year period.
- 1-1.55 **Rapid Response Well:** A well located in the rapid response area.
- 1-1.56 **Reassignment:** Any change to a certification that does not result in an increase of irrigated acres or consumptive use, due to circumstances such as, but not limited to, a change in property ownership or change in a source of Groundwater for the certified use, will be approved by the [District Ground Water Management](#) Staff provided all of the provisions of these rules and regulations are met.
- 1-1.57 **Regulated Well:** A water well designed and constructed to pump more than fifty (50) gallons per minute. A series of water wells, with a combined discharge of more than fifty (50) gallons per minute, of which the water is commingled, combined, clustered or joined as a single unit for a single purpose shall be considered as one regulated well. (Certified acres)
- 1-1.58 **Replacement Well:** ~~Shall have the meaning provided for in state statutes in accordance with Neb. Rev. Stat. § 46-602(2)(a) through 46-602(2)(e).~~
- 1-1.59 **Reports:** Reports include, but are not limited to, FSA reports, Electric reports, Well Information reports, Phone reports, and Pivot Automation reports and any other report relating to Ground Water use.
- 1-1.60 **Test Hole:** A hole designed solely for the purpose of obtaining information on hydrologic or geologic conditions. [Neb. Rev. Stat. § 46-706\(28\)](#)
- 1-1.61 **Transfer:** The written approval by the Board of a Permit for the physical transfer of Ground Water, the change in type of use of Ground Water, the addition of a type of use of Ground Water to any well, the Transfer of Groundwater Certified Irrigated Acres, or the Transfer of a Groundwater Allocation.
- 1-1.62 **Unregulated Well:** A water well designed and constructed to pump fifty (50) gallons per minute or less and is not commingled, combined, clustered or joined with other water wells.
- 1-1.63 **Upland Sub Area:** That area of the District not delineated as being part of the Rapid Response Area or the Platte Sub Area.
- 1-1.64 **Variance:** (a) ~~An approval by the District to deviate from a restriction imposed under subsection (1), (2), (8) or (9) of Neb. Rev. Stat. § 46-714, or (b) approval from the District Board~~ to act in a manner contrary to existing rule or regulation, ~~from a governing body~~ whose rule or regulation is otherwise applicable. [Neb. Rev. Stat. § 46-706\(29\)](#)
- 1-1.65 **Water Short Year:** Will be in effect in those years in which the projected or actual irrigation supply is less than 119,000 acre feet of storage available for use from Harlan County Lake, as determined by the United States Bureau of Reclamation for the Republican River Compact Administration.
- 1-1.66 **Water Well:** As defined in [state statute Neb. Rev. Stat. § 46-601.01](#).
- 1-1.67 **Wellhead Protection Area:** 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. [Neb. Rev. Stat. § 46-1502\(4\)](#)

Commented [DB4]: Ten percent of what? We should expand on this.

## **CHAPTER 2 – MANAGEMENT AREA**

## RULE 2-1 DESIGNATION OF MANAGEMENT AREA AND BOUNDARIES

- 2-1.1 A Sub Area of the Management Area designated on July 1, 1998 is hereby designated for purposes of implementing the Integrated Management Plan. The geographic and stratigraphic boundaries of the Sub Area coincide with the existing geographic and stratigraphic boundaries of the existing Management Area designated on July 1, 1998 (such sub area for integrated management will be referred to as a "management area"). The geographic boundary of the Management Area is the boundary of the Middle Republican Natural Resources District. The stratigraphic boundary of the Management Area is from the land surface to the base of the underlying sand and gravel layers that contain the water bearing material. The boundaries of the District, the Rapid Response Areas and Platte Basin Area are illustrated on Map 3.
- 2-1.2 A list of the legal descriptions identifying the Rapid Response Areas and Platte Basin Area are on permanent file at the District office in Curtis and is available for inspection during normal business hours.

## RULE 2-2 MORATORIUM

- 2-2.1 Except as provided hereinafter, no permits to construct a new Regulated Water Well in the Management Area will be issued unless a variance is granted by the Board.
- 2-2.2 Replacement wells and backup wells, as defined in these Rules and Regulations, respectively, are not subject to the moratorium.

## CHAPTER 3 – PERMITTING

### RULE 3-1 PERMIT TO CONSTRUCT A WATER WELL [see *Neb. Rev. Stat. § 46-735 generally*]

- 3-1.1 Due to the Moratorium, permits under this Chapter shall only be granted through the variance process. Applicants seeking a variance must comply with Chapter 3 to present their variance request. Except as provided in Rule 3-1.3, any person who intends to construct a regulated water well on land in the Management Area which he or she owns or controls shall, before commencing construction, apply with the District for a permit on a form provided by the District. The application shall be accompanied by a non-refundable filing fee payable to the District. The District shall review such applications and issue the approved permit, with or without conditions, or deny the permit within thirty (30) days after the application is properly prepared and received. An incomplete or defective application shall be returned for correction. If correction is not made within sixty (60) days, the application shall be cancelled.
- 3-1.2 Applications for a permit to construct a water well that require consideration of a variance request shall not be deemed as properly filed and complete until such time as the Board has acted to approve the variance request.
- 3-1.3 Exceptions. No permit shall be required for:
- 3-1.3.1 Test holes
- 3-1.3.2 Dewatering wells with an intended use of ninety (90) days or less. There shall be no more than ten (10) dewatering wells at any given site. Dewatering projects that require more than ten (10) wells at any given site will require a permit.
- 3-1.3.3 A single water well designed and constructed to pump fifty (50) gallons per minute or less.
- 3-1.4 A permit is required for a water well designed and constructed to pump fifty (50) gallons per minute or less if such water 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 (1) well and the combined capacity shall be used as the rated capacity.
- 3-1.5 A person shall apply for a permit before he or she modifies a water well, for which a permit was not required when the well was constructed, into one for which a permit would otherwise be required.
- 3-1.6 Any person who has failed or in the future fails to obtain a permit before construction is commenced shall make application for a late permit on forms provided by the District. ~~*Neb. Rev. Stat. § 46-735(4)*~~ The application for a late permit shall be accompanied by a \$250.00 fee payable to the District and shall contain the same information required on the form provided by the District as indicated in Rule 3-1.1. ~~*Neb. Rev. Stat. § 46-735(5)*~~
- 3-1.7 If the applicant intends to withdraw forty (40) acre-feet or more annually, they must provide offset/replacement water in an amount that is equal to or greater than the amount they plan to withdraw. The offset/replacement water must be obtained within a one township area around the proposed well. The District will utilize airborne electromagnetic survey (AEM) information to evaluate the

probable impact of the proposed well. Only wells that show no harmful effects to the surrounding wells or to compliance with the District's Integrated Management Plan will be approved. The applicant may, at his or her own expense, provide additional data and information to support their application. All approved wells will be metered with telemetry meters installed to MRNRD specifications.

- 3-1.87 The application for a permit shall be denied if, (1) the location or operation of the proposed water well or other work would conflict with any regulations or controls adopted by the District, (2) the proposed use would not be a beneficial use, or (3) in the case of a late permit only, that the applicant did not act in good faith in failing to obtain a timely permit. *Neb. Rev. Stat. § 46-736*
- 3-1.98 No refund of any application fees shall be made regardless of whether the permit is issued, canceled, or denied. *Neb. Rev. Stat. § 46-736*
- 3-1.109 The issuance, by the District, of a permit or the registration of a water well with the Nebraska Department of Water, Energy, and Environment~~Natural Resources~~ 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 properly adopted after such date.
- 3-1.110 The applicant shall commence construction as soon as possible after the date of approval and shall complete construction and equip the water well prior to the date specified in the conditions of approval, which shall not be more than one (1) year from the date of approval, unless it is clearly demonstrated in the application that one (1) year is an insufficient period of time for such construction. Failure to complete the project under the terms of the permit may result in the withdrawal of the permit by the District. *Neb. Rev. Stat. § 46-738*

**Commented [DB5]:** I suggest that you add: (4) will not harm existing wells or the District's compliance with its Integrated Management Plan.

#### **RULE 3-2 WELL SPACING**

- 3-2.1 No regulated well except a backup well shall be constructed upon any land in this District within one thousand three hundred twenty (1,320) feet of any other registered ~~regulated~~ well, regardless of ownership except:
- 3-2.1.1 If an irrigation well was drilled prior to September 20, 1957, and which is less than six hundred (600) feet from a registered irrigation well, a replacement well may be located closer than one thousand three hundred twenty (1,320) feet from another regulated well if it is drilled within fifty (50) feet of the water well being replaced.
- 3-2.1.2 A replacement well may be constructed less than one thousand three hundred twenty (1,320) feet from another registered regulated water well, if it is constructed within one hundred (100) feet of the water well it replaces or is relocated no closer than the well it replaces to other wells and if such replaced water well was, when constructed, in compliance with all applicable laws, rules and regulations.
- 3-2.2 The well spacing required by Rule 3-2.1 shall also apply to the distance between a proposed new regulated well and an unregistered regulated water well but only for a period of sixty (60) days to allow for registration of such unregistered water well.
- 3-2.3 In accordance with state statutes and regulations~~Neb. Rev. Stat. § 81-1505(1)(2), Title 118, Ch. 7, 003-01A3~~, no irrigation well shall be drilled within a 1,000-foot distance of the perimeter of a Wellhead Protection Area.

### **CHAPTER 4 - CERTIFICATION**

#### **RULE 4-1 CERTIFICATION**

- 4-1.1 No regulated well shall be operated until its use is certified and approved by the Board pursuant to these rules and regulations. No lands/acres shall have ground water applied for irrigation until those lands/acres have been certified for irrigation.
- 4-1.2 The District shall review each certification for all uses no less often than every five (5) years. Errors or inconsistencies discovered during that review shall be resolved to the satisfaction of the District before any new allocation is made to the previously certified uses. Following notice and a hearing, the Board may rescind any previously approved certification and any previously granted allocation to a well for which false or misleading information was used to obtain the certification required by Rule 4-1.4 or 4-1.14.

#### **IRRIGATION USES**

- 4-1.3 No later than January 1, 2004 each owner or operator of a regulated irrigation well shall certify (1) the well registration number for that well, (2) the number and location of all acres irrigated at least once by that well between January 1, 1993 and December 31, 2002, (3) the maximum number of acres irrigated by that well in any one (1) year within that time period, (4) the number and location of all acres irrigated by that well in 2003. Such certification shall be on forms

provided by the District and shall be accompanied by applicable records from the Farm Service Agency and/or the County Assessor and such other information as requested by the District to verify the information certified.

4-1.3.1 The owner of an irrigation well is responsible for the amount of water pumped and the acres irrigated by that well. It is the responsibility of all parties associated with certified irrigated acres a well serves to have an agreement or come to a resolution as to who owns those certified acres.

- 4-1.4 By the beginning of the 2008 crop year all ground water irrigated acres certified with the District should be taxed as irrigated acres by the County Assessor.
- 4-1.5 The Board may take action to approve, modify and approve, or reject the certifications provided by owners and/or operators pursuant to Rule 4-1.4. Should changes be made, the number and location of certified irrigated acres approved for each such irrigation well, shall be determined at a public meeting of the Board after consideration of the following:
- The information provided on and with the certification filed in accordance with Rule 4-1.4,
  - Any water use reports for that were filed or information gathered as part of the District's annual meter reading or other investigations,
  - U.S.D.A. Farm Service Agency records,
  - County Assessor records,
  - Aerial photographs, and
  - Other information available to and deemed relevant by the Board.
- 4-1.6 Only those acres that are actually capable of being supplied with ground water through irrigation works, mechanisms or facilities existing at the time of certification or reassignment may be approved as certified acres by the Board.
- 4-1.7 Replacement irrigation wells constructed after May 19, 2003 shall be approved for no more certified acres than the certified use for the well being replaced.
- 4-1.8 After January 1, 2004, with the prior approval of the Board, an irrigation well that was constructed prior to June 12, 2002 but has not yet been used for irrigation, is in inactive status may be granted certified acres. That approval may be granted only upon the written request of the well owner and when the Board has determined (1) that the well is in compliance with all applicable rules and regulations of the District (2) the location and number of acres proposed to be irrigated by that well in the future will be limited to no more than one hundred and sixty (160) acres, the acres that the well is capable of serving or the certified use being replaced. This certified use includes supplementing existing surface water irrigated acres or replacing the use of active wells on certified irrigated acres.
- 4-1.9 If certification is not filed pursuant to Rule 4-1.4 through 4-1.10 for an irrigation well constructed prior to January 1, 2004, the well shall be an "illegal water well" as that term is defined in these Rules and Regulations.
- 4-1.10 The Board shall not certify any irrigated acres for an illegal water well, as that term is defined in these Rules and Regulations, and an illegal water well shall receive no future allocation of water until such certification has been filed and until the Board has approved or modified and approved that certification. Certification of acres can be approved for any such well if and when the deficiency that caused that well to be an illegal water well is corrected.

#### **NON-IRRIGATION USES**

- 4-1.11 No later than September 1, 2004, each owner or operator of a regulated well used for purposes other than irrigation shall certify (1) the well registration number for that well, (2) the nature and location of the use of the water withdrawn from that well, (3) the measured or estimated average annual quantity of water withdrawn from that well between January 1, 1993 and December 31, 2002 and a description of the method used to determine that quantity, (4) the measured or estimated maximum quantity withdrawn from that well in any one (1) year during that time period, (5) the measured or estimated quantity of water withdrawn from that well in 2003, (6) if the well was constructed before June 12, 2002 but has not yet been used for its intended purpose, the quantity of water proposed to be withdrawn from that well in the future, (7) if the well is a replacement well constructed after January 1, 2003, the information required by items (1) through (5) above for the well replaced, (8) if the well was constructed after June 12, 2002, the quantity withdrawn in 2003 and the quantity of water proposed to be withdrawn from that well in the future, and (9) if the owner or operator of the well desires that the annual quantity of use to be certified for that well be in excess of the quantity historically withdrawn by that well, the quantity proposed and an explanation why that quantity is necessary to accomplish the purpose for which the well is used. Such certification shall be on forms provided by the District and shall be accompanied by such information as requested by the District to verify the information certified.
- 4-1.12 No later than November 1, 2004, the Board shall take action to approve, modify and approve, or reject the certifications provided by the owners and/or operators of non-irrigation wells pursuant to Rule 4-1.14. Such action shall be taken after reviewing the information provided by the owner or operator of the well and any other information available to and deemed relevant by the Board. The Board's approval of the certification for such a well shall not, by

Itself, limit the quantity of water that can be withdrawn by that well in 2005 or any subsequent year. Any such limitations on the quantity that can be withdrawn annually from that well will be imposed through the Board's allocation of water to that well pursuant to the District's rules and regulations. The Board may use the information provided through such certification if and when it determines the amount to be allocated to that well.

- 4-1.13 Only those non-irrigation uses that are actually capable of being supplied with ground water through works, mechanisms or facilities existing at the time of certification may be approved as certified uses by the Board.
- 4-1.14 If no certification is filed pursuant to Rule 4-1.14 for a regulated well constructed prior to September 1, 2004, and used for other than irrigation purposes, that well shall not be used and shall not receive an allocation from the District until such certification has been filed with the District and approved by the Board.
- 4-1.15 Certification shall not be approved by the Board for any regulated non-irrigation well, which is an "illegal water well" as that term is defined by these Rules and Regulations. The Board may approve such certification if the deficiency that caused the well to be an illegal water well is corrected.
- 4-1.16 Certification of use for an inactive status well will be approved only when that well is returned to active status, has been registered as such with the Department of Natural Resources, and is in compliance with all applicable rules and regulations of the District.

#### **RULE 4-2 REASSIGNMENT OF GROUNDWATER CERTIFIED IRRIGATED ACRES**

- 4-2.1 Reassignment of certified acres as a result of changes in operation, without a change in ownership and without the relocation of a well:
  - 4-2.1.1 No change in the number or location of certified irrigated acres can occur without the prior approval by the District.
  - 4-2.1.2 A change in use of a regulated well used for purposes other than irrigation, which would result in a change in that well's certified water use, shall be approved by the District prior to the change.
  - 4-2.1.3 The District may reject such changes if it finds that such changes would cause an increase in Nebraska's consumptive use as calculated pursuant to the Republican River Compact or would have detrimental effects on other ground water users or on surface water appropriators.
- 4-2.2 All requests for a reassignment shall be made on forms provided by the District and shall contain the following information and other information requested by the District:
  - 4-2.2.1 Name, mailing address and phone number of applicants and all source property owners,
  - 4-2.2.2 Identify the certified acres, the source of the certified acres, legal descriptions, parcel number and well registration number(s) for all wells involved,
  - 4-2.2.3 Provide history of use,
  - 4-2.2.4 Name and address of all lien holder(s) on record for parcels identified,
  - 4-2.2.5 Identify the destination for certified acres, legal descriptions, parcel number and well registration number(s) for all wells involved,
  - 4-2.2.6 Any other factors consistent with the purposes of this section that the District deems relevant to protect the health, safety, and/or welfare of the District and its citizens.
  - 4-2.2.7 A report of title must accompany any request for transfer or reassignment of acres.

#### **RULE 4-3 DECERTIFICATION OF USE**

- 4-3.1 After July 1, 2007 a landowner must, by June 1 each year, certify the non-irrigation status of his acres to be excluded from the occupation tax. See *Neb. Rev. Stat § 2-3226.05 (2)*
- 4-3.2 The owner of certified acres may permanently decertify those acres.
- 4-3.3 Decertification may be a requirement of incentive program eligibility. If decertification is required, the well must be abandoned or converted from an irrigation well within 180 days.

#### **RULE 4-4 LIMIT OR PREVENT THE EXPANSION OF NEW ACRES**

- 4-4.1 Beginning on November 17, 2003 and except as provided by a transfer or reassignment, no irrigation well may be used to irrigate any acre that was not irrigated with ground water at some time between January 1, 1993 and November 17, 2003.

- 4-4.2 With the prior approval by the Board of the appropriate transfer permit, acres not irrigated with ground water between January 1, 1993 and November 17, 2003, may be irrigated only if the Board determines that irrigation has been or will be discontinued on an equal or greater number of acres that were irrigated with ground water after January 1, 2004. In deciding whether to approve any such proposed substitution of ground water irrigated acres, the Board shall consider the extent to which, if at all, such substitution of acres would adversely affect other ground water users or surface water appropriators or would cause an increase in Nebraska's consumptive use as calculated pursuant to the Republican River Compact.
- 4-4.3 Reassignment of an equal or lesser number of irrigated acres, by a person on properties owned by that person, shall not be considered as the expansion of new acres.

**RULE 4-5 REPORTS**

- 4-5.1 Each operator of a regulated well, other than an irrigation well, shall report, on forms provided by the District, by February 1<sup>st</sup> of each year, the total water withdrawn from that well during the preceding calendar year and the nature of the use of that water.
- 4-5.2 Owners and operators of regulated irrigation wells shall allow District Staff to determine from the flow meters each year, the total water withdrawn from that well since the last reading. Reports will be made available to each owner and operator after official reporting has been sent to Nebraska Department of [Water, Energy, and Environment](#)~~Natural Resources~~.
- 4-5.2.1 If the owner and/or operator of a regulated irrigation well dispute the amount of total water withdrawn from the well during the year as read by District Staff, the owner and/or operator shall have until September 1<sup>st</sup> of the current year to notify the District of their objection.
- 4-5.3 In order to ensure compliance with the Republican River Compact Accounting procedures, additional information may be required in reports from operators.

**CHAPTER 5 – FLOW METERS**

**Rule 5-1 FLOW METERS**

- 5-1.1 Flow meters meeting accuracy specifications shall be installed on all regulated wells except;
  - 5-1.1.1 Before any inactive wells are placed in service, a flow meter shall be properly installed, the District shall be notified of the well's status change, and the status of the well in the well registration records of the Department of [Water, Energy, and Environment](#)~~Natural Resources~~ shall be updated to reflect its active status. No regulated well shall be operated without a properly installed and operational flow meter.
- 5-1.2 Installation –Flow meters and FS-100 will be installed so that all water pumped by a regulated well passes through a meter. The District may, at a time of its own choosing, verify the location and proper installation of flow meters. The proper installation of a meter is such that it meets the manufacturer's specifications and/or more restrictive specifications developed by the District.
  - 5-1.2.1 Meters must be located so as to prevent damage to the meter from excessive vibration.
  - 5-1.2.2 The District may establish a method by which the installed meter is tagged, sealed, marked or otherwise protected from tampering.
  - 5-1.2.3 New installations or changes to the location of currently installed meters shall be permanent.
  - 5-1.2.4 All meters including previously installed meters must be located in compliance with District standards.
- 5-1.3 Service - It shall be the responsibility of the District to provide for service and maintenance of the flow meter according to manufacturer standards. Each flow meter shall be maintained by the District at least once every four (4) years. This service will be provided in the off-season and will not interfere with the normal operation of the meter or the well. The District may enter onto property to provide this service.
- 5-1.4 The District may establish a spot check program to inspect the serviceability and verify use of a meter and FS-100.
- 5-1.5 All meters and FS-100 will be permanently mounted in the irrigation distribution system.
- 5-1.6 If the District questions the accuracy or validity of a meter reading, the landowner shall provide sufficient evidence to verify the reading on the meter. For electric wells, power records may serve this purpose. If any power source on a well or irrigation system within the Management Area is equipped with an hour meter, the District may require the

landowner to provide appropriate readings from said hour meter. If requested records are not available, county average will be applied.

- 5-1.7 Improperly Installed Meters – The installation of meters that do not meet manufacturers' or District standards must be corrected. Failure to provide for proper installation may result in the loss of allocation for the next crop year.
- 5-1.8 Inoperative Meters – Landowners will notify the District of an inoperative meter within one (1) working day from the time the defect is noted. The District will repair or temporarily replace the inoperative meter. Failure to report inoperative meters may result in the loss of allocation for the next crop year.
- 5-1.9 Tampering with an installed flow meter – ~~If it is found that tampering with a flow meter so as to affect the accuracy or true use of the meter has occurred, that~~ may result in the loss of allocation for the next crop year or potentially decertification, could occur.
- 5-1.10 Backflow Preventer Required – Prior to the installation of a new meter, the discharge piping from any pump and pumping requirement must be equipped with a backflow preventer. A backflow preventer must be placed before any other device or branches in the distribution piping. Check valves must not be buried at the well for backflow prevention. The backflow preventer must be located within 1 foot of the discharge head and prior to other devices.
- 5-1.11 The District may require that meters that have been damaged due to neglect, whether that be from livestock, equipment, or other operator neglect, may be liable for the cost to replace it.
- 5-1.12 The landowner will notify the District before any changes or repairs can be done if it is going to involve removing the meter from the pipe and will need to be immediately reported to the District when the changes are done for inspection and resealing. Failure to provide notice may result in the loss of allocation in the next crop year.

## CHAPTER 6 – POOLING

### **RULE 6-1 POOLING**

- 6-1.1 All Certified Acres under the same Ownership are automatically Pooled and no formal application is required.
- 6-1.2 Pooling shall not be used in a manner to circumvent or to avoid the formal process developed for transfers.
- 6-1.3 Common management through a written agreement, approved by the Board, is required within a Pool. The agreement shall provide who will operate the Pooled lands.
- 6-1.4 On the Pooling application, which is provided by the District ~~and located (at the district office 208 Center Ave, Curtis, NE 69025)~~, two or more persons may agree to Pool the allocation for the current allocation period from their individual wells on their combined Certified Acres so long as the combined Certified Acres are under Common Management. Each Person must certify, by signing the application form in front of a notary, that each understands that by requesting the right to Pool, each is expected to comply with the District's Rules, Regulations, or controls, in effect or properly adopted at a later date.
- 6-1.5 The information provided to the District in and for the Pooling application shall contain:
  - a. The names, addresses, and notarized signatures of all persons desiring to be in the Pool
  - b. A map showing the location of the certified acres for the land included in the proposed Pool
  - c. Well registration numbers of all wells included in the proposed Pool
  - d. Legal description of the land involved in the proposed Pool
  - e. County in which each well is located
  - f. Certified acres assigned to each well
  - g. Allocation period which for the proposed Pool would be in effect
  - h. Evidence of common management for the acres to be Pooled as provided in Rule 1-1.22.2
  - i. Any other information required by the District that is reasonably necessary to evaluate the proposed Pool
- 6-1.6 The term of the application shall only be within the current allocation period. Pooling agreements shall not cover more than the current allocation period and must be renewed pursuant to Rule 6-1.4 and 6-1.9 if continued into a new allocation period.
- 6-1.7 Pooling agreements shall remain in effect only for the term of the allocation period on the application unless earlier terminated, in writing, by any party in the agreement or by the District due to the lack of Common Management or change in ownership of a well, or for any other reason under these Rules.

- 6-1.8 Certified acres proposed to be Pooled must be within the District and acres outside of the District boundaries shall not be eligible for Pooling.
- 6-1.9 A Pooling application must be submitted to the District between January 1 and March 31 of each year. Pooling applications submitted after March 31 will be denied. The applicant may, however, submit another application the following year, during the period of January 1 and March 31 which will begin the year it has been submitted and not retroactive to include any previous years in the allocation period.
- 6-1.10 Incomplete applications shall be returned to the applicants via certified-mail for correction or completion of required information as identified by the District in these Rules and as required on the Pooling application. Examples of an incomplete application include, but are not limited to, the applicant failing to provide evidence of Common Management for all persons that are parties to the Pooling application, not providing the MRNRD with all necessary information as provided in these Rules, including Rules 6-1.5, and lack of all required signatures that are properly verified by a notary. If the applicant does not correct and complete the Pooling application within thirty (30) days of being notified that the previously submitted application is incomplete, the Pooling application shall be considered invalid without further notice required from the District.
- 6-1.11 After receiving a complete application, the District shall deny or approve the application within thirty (30) days. The applicant will receive a letter from the District stating whether the application has been denied or approved. Under no circumstance should the applicant or those other persons involved in the Pooling application consider the Pooling application, or any part thereof, approved until written confirmation from the District has been received stating that the Pooling application has been approved.
- 6-1.12 The District may deny a Pooling application for any reason, including, but not limited to, violations of the District's Rules, Regulations, or controls, or based on the rate of decline or the percentage of acres already developed in a township in areas in which the Pooling will be used. District statistics and Ground Water Level Change maps from the Conservation and Survey Division of the University of Nebraska may be used as a reference of areas of decline.
- 6-1.13 The District may limit or impose conditions upon applicants for Pooling if the use is between sub areas including the area within the Platte with different allocations.
- 6-1.14 Certified acres enrolled in a temporary or permanent irrigation retirement program including Federal, State of Nebraska and locally administered programs are not eligible for Pooling. The District will rely upon program records on file at the District office. The Pooling applicant must ensure that the District has current information regarding such programs.
- 6-1.15 The District shall provide the parties of an approved Pooling application, the revised allocation per Certified Acres for the certified acres covered by the Pooling application. Under no circumstances shall the provision of this information be considered an extension of or an approval of a Pooling application.
- 6-1.16 If an approved Pooling application is expired or terminated, the District shall provide the parties with the remaining allocation based on the water use while the Certified Acres were Pooled. Under no circumstances shall the provision of this information be considered an extension of or an approval of a Pooling application.
- 6-1.17 If the District has found that any person involved in a Pooling application, whether proposed and not yet approved or previously submitted and approved, has violated any of the District's Rules, Regulations, or controls, at any time, the Pooling application will be denied or revoked, immediately, and the person found to have violated the District's Rules, Regulations, or controls will be subject to either a temporary or permanent inability to Pool at any point in the future.
- 6-1.18 If the District terminates the Pooling agreement for any reason, including, but not limited to violation of the District's Rules, Regulations, or controls, then any revised allocations per Certified Acre will be deleted and a calculation of any remaining allocations shall default to actual water pumped on said well and may result in complete loss of allocation in overuse penalties as provided by these Rules.
- 6-1.19 All of the parties involved in a Pooling agreement that have been found in violation may also be held accountable for such violations and incur penalties depending on District action. The penalties will be applied to the whole Pool on the application.
- 6-1.20 Pooling may be utilized only on land that is certified for groundwater irrigation. Pooling shall not be allowed on acres that are comingled.

- 6-1.21 Before any Pooling application will be approved the Pooling applicant is required to ensure that all persons involved in the proposed Pooling application have a current recertification letter in the District office that includes the location and status of all acres involved.
- 6-1.22 At the end of every allocation period, previously approved Pooling applications shall be automatically terminated. A new Pooling application is required for each and every allocation period.

## CHAPTER 7 – VARIANCES

### RULE 7-1 VARIANCES

- 7-1.1 In accordance with [state statutes Neb. Rev. Stat. 46-706\(23\) and Neb. Rev. Stat. 46-706\(29\)](#), the Board may grant Variances from the strict application of the Rules and Regulations upon good cause shown. All requests for a Variance shall be made on forms provided by the District and shall contain the following information and any other information requested by the District:
  - 7-1.1.1 Name, mailing address and phone number(s) of applicants and all source property owners,
  - 7-1.1.2 Identify the Groundwater Certified Irrigated Acres, the source of the Groundwater Certified Irrigated Acres, legal descriptions, parcel number and well registration number(s) for all wells involved,
  - 7-1.1.3 Provide history of use,
  - 7-1.1.4 Name and address of all lien holders on record for parcels identified,
  - 7-1.1.5 Identify the destination for Groundwater Certified Irrigated Acres, legal descriptions, parcel number and well registration number(s) for all wells involved,
  - 7-1.1.6 Any other factors consistent with the purposes of this section that the District deems relevant to protect the health, safety, and/or welfare of the District and its citizens.
- 7-1.2 The Board authorizes the District Staff to make an initial determination on whether to grant a Variance using the information available to the District. Criteria used in making a variance determination by the District Staff, includes, but is not limited to, the following information: percent of development, static water level, depletion factor, rapid response area, upland area and wellhead protection area, and any previous violation(s) of the Rules and Regulations or the Act. Additional information may be requested in order to make a determination.
- 7-1.3 If the District Staff recommends approval of the Variance request, the Variance will be presented to the Board at the next monthly meeting or as soon as reasonably practicable.
- 7-1.4 If the Variance is denied by the District Staff, then the Variance will be reviewed by the Ground Water Committee, which will utilize all information gathered in Rule 7-1.2 to make its determination. If the Ground Water Committee approves the Variance, the Variance will be presented to the Board at the next monthly meeting, or as soon as reasonably practicable. ~~If the Ground Water Committee denies the request, the Owner/Operator requesting a Variance may request an opportunity to make a presentation to the Board at a regular or special meeting.~~
- 7-1.5 In acting upon a request for a Variance, the Board may, at its discretion, approve or deny a Variance and it may designate or impose conditions upon which a Variance may be granted. The Board may, at its discretion, issue a written decision concerning the Variance request.
- 7-1.6 Upon denial of a request for a Variance, no new Variance request pertaining to the same well or real estate will be accepted for a period of one (1) year from the date of such denial.
- 7-1.7 All requests for variances shall include a nonrefundable filing fee.

## CHAPTER 8 – TRANSFERS

### RULE 8-1 TRANSFER- TYPES

- 8-1.1 Transfers out of the District. Any person who desires to withdraw ground water from wells located within the District and transport that ground water out of the District for irrigation or industrial uses into adjacent MRNRDs may do so after obtaining a transfer permit. Use of the withdrawn water must be approved by the District within which the water will be used. Ground water shall not be transferred or transported to lands outside of the boundaries of the Republican River Basin as defined in the Republican River Compact.

8-1.2 Transfers into the District. Ground water withdrawn outside the District shall not be transported for use inside the District unless the District from which the ground water is withdrawn approves the withdrawal and transport in advance. Use of the transported water must be in accordance with these rules.

~~8-1.3 Transfer out of State. Requests for transfer of ground water out of state pursuant to *Neb. Rev. Stat. § 46-613.01* shall not be acted upon by the District until such time as the Nebraska Department of Natural Resources approves or denies the required transfer permit.~~

**Commented [DB6]:** I don't believe NRDs have any authority over out of state transfers.

8-1.34 Permanent Transfer of Acres. A landowner may permanently transfer a portion of his certified acres to another party. This transfer shall not result in an increase in total certified acres. To be eligible for a Permanent Transfer of Acres;  
8-1.34.1 The acres must be certified,  
8-1.34.2 The acres must be taxed as irrigated in the occupation tax databased maintained at the District,  
8-1.34.3 Only the base allocation for the remaining base allocation period may be transferred. Reserve associated with these acres shall be reduced to zero.  
8-1.34.4 Each landowner involved in a permanent transfer of acres must certify or reassign their acres accordingly and as limited by any conditions imposed on the transfer.

## RULE 8-2 PERMANENT TRANSFERS- GENERAL

8-2.1 Any person who intends to withdraw ground water and (a) transfer that ground water off the overlying land which he or she owns or controls shall, before making such transfer, apply for a transfer permit on forms provided by the District.

~~8-2.2 Requests for a transfer which fall under the authority of the Nebraska Department of Natural Resources, including the Municipal and Rural Domestic Ground Water Transfers Permit Act and the Industrial Ground Water Regulatory Act, will not be considered for action by the District until such time as the permits are approved by NDNR.~~

**Commented [DB7]:** I believe DWEE contends that you have concurrent jurisdiction for these. I agree with that and would recommend you remove this.

~~8-2.3 The MRNRD shall approve the withdrawal and transport of ground water when a public water supplier providing water for municipal purposes receives a permit from the Nebraska Department of Natural Resources pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act.~~

8-2.24 The applicant shall be required to provide access to his or her property at reasonable times for purposes of inspection by officials of the District.

8-2.35 All applications for a transfer permit under the authority of the District shall be made on forms provided by the District and may be approved, denied or conditioned by the Board.

8-2.46 The application for a transfer permit may be denied or conditioned to the extent that it is necessary to (1) ensure the consistency of the transfer with the purpose or purposes for which the management area was designated, (2) prevent adverse effects on other ground water users or on surface water appropriators, (3) maintain compliance with the Republican River Compact, and (4) otherwise protect the public interest and prevent detriment to the public welfare.

8-2.57 The application for a transfer permit shall be denied if (1) the location or operation of the proposed water well or other works would conflict with any regulations or controls adopted by the District or (2) the proposed use would not be a beneficial use.

8-2.68 The District may limit the allocation upon transfer of use if the use is between sub areas with different allocations.

8-2.79 The District may limit the allocation to the consumptive use associated with the certified use if the transfer is to a different preference use.

8-2.840 The issuance of a transfer permit, by the District, shall not vest in any person the right to violate any District rule or regulation, or any statute, state agency or other jurisdictional agency's rule, regulation or control in effect on the date of issuance of the permit or to violate any rule, regulation, or control properly adopted after such date. It is the responsibility of the applicant to ensure compliance with other rules and regulations.

8-2.944 The allocation for any use is associated with the certification of that use. The right to use the allocation shall be surrendered with a permanent transfer. The new user shall be limited to the quantity of allocation associated with the certified use and shall be subject to the same restrictions on volume of use as the original allocation or as further limited by the provisions in Rule 8-3.

8-2.102 A portion of the allocation for a municipal use may be transferred to another use. The amount transferred would be deducted from the municipal allocation.

8-2.113 If the transfer is to a different preference of use, the District may limit the allocation to the consumptive use associated with the certified use that is being transferred.

8-2.124 Only the owner of the land, upon which a well is registered, with certified acres and otherwise compliant with District rules and regulations may apply for a transfer of any type.

### **RULE 8-3 PERMANENT TRANSFERS- IRRIGATION**

8-3.1 All requests for a Permanent Transfer shall include a nonrefundable filing fee. The application involving a transfer well, shall include an additional nonrefundable filing fee for an Application to Construct a Water Well.

8-3.2 Within ten (10) business days after receipt, an applicant shall be notified of an incomplete or defective application and the application shall be returned to the applicant or the applicant will be informed of what additional information or actions are needed.

8-3.3 All requests for a permanent transfer shall be made on forms provided by the District and shall contain the following information and other information requested by the District:

8-3.3.1 Name, mailing address and phone number of applicants and all source property owners,

8-3.3.2 Identify the certified acres, the source of the certified acres, legal descriptions, parcel number and well registration number(s) for all wells involved,

8-3.3.3 Provide history of use,

8-3.3.4 Name(s) and address(es) of all lien holder(s) on record for parcels identified,

8-3.3.5 Identify the destination for certified acres, legal descriptions, parcel number and well registration number(s) for all wells involved,

8-3.3.6 Any other factors consistent with the purposes of this section that the District deems relevant to protect the health, safety, and/or welfare of the District and its citizens.

8-3.4 All requests for a permanent transfer will be considered by the District in the same fashion, and under the same procedures, as set forth in Rules 7-1.2 through 7-1.7 ("Variances").

8-3.5 Applications shall not be considered complete if fees have not been received or if the application is missing required information or signatures.

8-3.6 An application for a permanent transfer that also requires a variance shall not be complete until the applicant has received an approval of the applicant's variance request.

8-3.7 Should additional information be needed between initial review and final review, the District may table the application until the information is received.

8-3.8 Permanent transfers of any type may not be made into a designated critical unit or the Rapid Response Region.

8-3.9 Acres enrolled in CREP, CRP, EQIP or otherwise encumbered in a federal or state program that limits the use or availability of the water supplies on such acres, may not be considered for transfer.

8-3.10 To determine the amount of certified acres eligible for transfer, the history of use, verified by District records, shall be determined.

8-3.11 A report of title must accompany any transfer or reassignment of acres.

## **CHAPTER 9 – ALLOCATION**

### **RULE 9-1 ALLOCATION**

9-1.1 The use of ground water from all regulated water wells shall be allocated by the District. Allocations will be set after considering: (1) the relationship between wells and surface waters and the impact of well usage on stream flow; (2) whether ground water levels are declining; and (3) such other factors as the Board determines may be relevant to the appropriate amount of water to be withdrawn.

9-1.1.2 All owners and operators of groundwater certified acres that receive an allocation are required to sign a receipt of the allocation and an understanding of the groundwater rules and regulations at the beginning of every new allocation period. Any owner or operator that does not sign a receipt will not receive an allocation.

- 9-1.2 **INDUSTRIAL USES:** Regulated wells for industrial uses, in place prior to January 1, 2004, shall receive an allocation determined on a case-by-case basis, taking into account the history of use of the wells and the needs of the industry for which the well is used. The industry shall provide notice to the District of its need for additional allocation. Additional allocations as needed to comply with state or federal rules shall be added to the certified use without a reduction adjustment to the industry.
- 9-1.2.1 New industrial uses shall be granted a base consumptive use allocation of 80 acre feet per year.
- 9-1.2.2 Effective January 1, 2018, uses requesting an allocation greater than 80 acre feet an offset will be required and must be approved by the Board of Directors. The person requesting the allocation shall provide evidence that the allocation requested is no greater than the industry related standard for that type of use.
- 9-1.2.3 Allocations for industrial wells the use of which come under the authority of the Industrial Ground Water Regulatory Act shall be determined by the amount permitted by the Act.
- 9-1.3 **MUNICIPAL USES** – Without further need of application, each municipality shall be granted an annual per capita allocation as shown in Table 1. This allocation for an "average town" is based on the land area of all communities in the District with a public water supply and the base allocation for Upland Sub Area irrigated acres. Municipal uses shall be reviewed at the February Board meeting each year and adjustments for growth shall be computed. The reports as required in Rule 4-5 are necessary to determine overall ground water use in the District. Industrial uses within a municipality that exceed the existing municipal allocation shall be in accordance with Rule 8-3.3, new industrial uses. These industrial uses shall include, but not be limited to, manufacturing, commercial, power generation and maintenance of the turf of a golf course. (11/13/07)
- 9-1.4 **COMMERCIAL LIVESTOCK OPERATION USES** – Livestock operation wells will be allocated an amount equal to the maximum reasonable quantity of water for livestock and poultry as shown in Table 2. Effective January 1, 2018, uses requesting an allocation greater than 80 acre feet an offset will be required and must be approved by the Board of Directors.
- 9-1.5 Upon completion by the operator and receipt by the District of the report required by Rule 4-5, allocations for industrial uses, municipal uses and commercial livestock operation uses shall be reviewed annually and adjustments to allocations may be considered at the February Board meeting.
- 9-1.6 **IRRIGATION USES** – With the exception of Platte Sub Area, Allocations for all irrigation uses shall be established as set forth in Appendix 1 to these rules and as further set forth below.
- 9-1.7 **PLATTE SUB AREA -**
- 9-1.7.1 Allocation: unrestricted
- 9-1.7.2 Allocation period: Not applicable
- 9-1.7.3 Base allocation: Not applicable
- 9-1.7.4 Base Certification: One hundred (100) percent of certified irrigated acres
- 9-1.7.5 Maximum yearly use: unrestricted
- 9-1.8 For irrigation users: if at the end of an allocation period, an operator has consumed less than his or her allocation, he or she may carry the reserve or unused portion forward to the subsequent allocation period. However, the maximum amount of reserve cannot exceed the base allocation of the completed period. (See Rule 9-1.6) Reserve ground water must be used for the same certified acres for which the water was originally allocated.
- 9-1.9 Certified irrigated acres participating in temporary retirement programs such as the Federal Conservation Reserve Program (CRP and CREP), EQIP, AWEPP or similar programs shall not receive an allocation during the term of participation. Certified irrigated acres removed from these programs shall be granted an allocation that is prorated for the remaining years of the allocation period. Any carryover existing at the time of enrollment in a Federal Conservation Program will be forfeited.
- 9-1.10 If a producer chooses to certify the non-irrigation status under the provisions of *Neb. Rev. Stat. § 2-3226.05 (2)* he or she shall surrender the base allocation for the years in which the acres are certified as non-irrigated.
- 9-1.11 The District may review any allocation, rotation or reduction control imposed in a management area and/or sub area and may adjust allocations, rotations or reductions to accommodate or otherwise reflect findings of such review consistent with the ground water management objectives. Such review shall consider more accurate data or information that was not available at the time of the previous allocation, rotation or reduction order, designation of a Water Short Year, Compact Call Year and such other factors as the District deems appropriate.
- 9-1.12 The District may take administrative action or take any other legal action authorized or permitted by law to prohibit further withdrawal of ground water from any regulated well whenever an operator has exhausted his or her allocation or has in any other way violated the amount, limitations, or conditions of his or her allocation or violated any other

rules of the District. In the event of such action, no ground water may be withdrawn until the operator has adhered to District rules and regulations or any other conditions imposed as a result of the action.

- 9-1.13 OVERUSE ADJUSTMENT - If an operator has exceeded his or her allocation, the allocation for the next allocation period shall be reduced by the number of acre inches, by which said allocation was exceeded in the prior period. An adjustment of 1 inch for every inch over the first 3 inches and 2 inches for every inch over 3 inches of overuse will be applied.
- 9-1.14 **N-CORPE USE ALLOCATION** - Use of wells located in that portion of the N-CORPE Project area that lies within the boundaries of the District ("MRNRD N-CORPE Project Wells") shall be subject to allocation under the following principles and rules:
- 9-1.14.1 The District notes its Purpose statement set forth above in its Groundwater Management Area Rules & Regulations: "The purposes of the management area are (1) to protect ground water quantity; and (2) the prevention or resolution of conflicts between users of ground water and appropriators of surface water, which ground water and surface water are hydrologically connected through implementation of controls to meet the goals and objectives identified in the Integrated Management Plan for the Middle Republican Natural Resources District and the Nebraska Department of Natural Resources."
- 9-1.14.2 The District further notes its duty to regulate groundwater use so as to protect the interests of the general public from declining groundwater levels and depletion of flow of surface water; as well as its goal of utilizing best practices and best available scientific methodology in doing so.
- 9-1.14.3 In balancing the foregoing principles and duties with the Integrated Management Plan and augmentation and Compact compliance goals of N-CORPE, the District determines that the following allocation rules shall apply to pumping of MRNRD N-CORPE Project Wells:
- 9-1.14.3.1 The general rules set forth in Rule 4-5 and Rule 9-1.1 shall apply to MRNRD N-CORPE Project Wells.
- 9-1.14.3.2 MRNRD N-CORPE Project Wells shall be subject to a base allocation of a total of 10,433.6 acre feet over a period of ten (10) years, or an aggregate allocation of 104,336 acre feet for a ten (10) year period for all of the MRNRD N-CORPE Project Wells.
- 9-1.14.3.3 The Groundwater Committee of the District will review and consider adjustment of the allocation every two (2) years, based on results of modeling, groundwater level depletion determinations, other existing conditions and such other best available scientific methodology.

#### **RULE 9-2 CRITICAL UNITS**

- 9-2.1 No transfers or changes of use shall be permitted in a designated Critical Unit. SWANSON Critical Unit is a designated Critical Unit and includes that portion of the Quick Response Sub Area west of a north-south line through the centerline of Trenton Dam. (see Map 2.)

### **CHAPTER 10 – WATER ADMINISTRATION**

#### **RULE 10-1 COMPACT CALL YEAR**

- 10-1.1 Based on a forecast provided by the Department of Natural Resources a Compact Call Year may be designated by the Department.
- 10-1.2 Additional measures needed in a Compact Call Year may be mitigated by the Board, after consultation and approval by the Department of Natural Resources, in accordance with the Integrated Management Plan, by the active participation in incentive programs, river flow enhancement projects, other projects designed to reduce consumptive use or other management actions.

#### **RULE 10-2 WATER SHORT YEAR ADMINISTRATION**

- 10-2.1 No later than October 1, 2005 and October 1 of each following year the Department of Natural Resources will notify the District of the potential for Water Short Year administration. Notification of updates to such determinations will be provided monthly, or more often as requested, through the following June 30<sup>th</sup> at which time the final determination will be made.
- 10-2.2 Upon receiving notice of the potential designation of a Water Short Year, the District shall provide notice to irrigators of this designation by placing said notice on the District website.

- 10-2.3 Additional measures needed in a Water Short Year may be mitigated, at the discretion of the Board, by the active participation in incentive programs, river flow enhancement projects, or other projects designed to reduce consumptive use. (11/13/07)

#### **RULE 10-3 INCENTIVE PROGRAMS**

- 10-3.1 Unless permitted by the rules and regulations established by individual incentive programs, no certified acres may be enrolled in incentive programs or special initiatives sponsored by or funded by the District if such certified acres do not have a history of use in two (2) of the previous five (5) years.
- 10-3.2 Incentive programs may include any Federal, State, or Local programs that have the effect of reducing the MRNRD's overall consumptive use. Subject to State law, the MRNRD may also raise those funds necessary to provide the District's share of payments in incentive programs it utilizes.
- 10-3.3 The District incentive programs may provide for the temporary or permanent retirement of certified ground water irrigated acres or any project that reduces consumptive use or increases streamflow.
- 10-3.4 Guidelines for incentive programs shall be established by the District or in cooperation with other agencies participating in the incentive program and may be more or less restrictive than current District rules and regulations.

### **CHAPTER 11 – VIOLATIONS AND ENFORCEMENT.**

#### **RULE 11-1 VIOLATIONS AND ENFORCEMENT**

- 11-1.1 The District Staff may investigate alleged violations of the Rules and Regulations and/or Act. The District may require Owners and Operators to provide Reports and records relating to Ground Water use.
- 11-1.2 Upon conclusion of the investigation, if the District Manager determines that a violation occurred, he/she shall issue a Notice of Intent to Issue Cease and Desist Order to the alleged violator. The alleged violator shall have 10 calendar days from receipt of the Notice of Intent to Issue Cease and Desist Order to request a hearing before the Board. If the alleged violator fails to respond to the Notice of Intent to Issue Cease and Desist Order within 10 calendar days from its receipt, the District Manager shall issue a Cease and Desist Order. The District Manager shall provide the District Board a report of any issuance of a Cease and Desist Order at the next regularly scheduled Board meeting.
- 11-1.2.1 If the alleged violator provides a written request for a hearing within the allotted 10 day period after receiving the Notice of Intent to Issue Cease and Desist Order, such hearing shall be scheduled at a mutually agreeable time and date.
- 11-1.3 Notice for all hearings related to Cease and Desist Orders and/or orders issuing penalties shall be provided in accordance with *Neb. Rev. Stat. § 46-707* or any superseding statute.
- 11-1.4 All hearings related to Cease and Desist Orders and/or orders issuing penalties will comply with the Nebraska Groundwater Management and Protection Act and will comply with the minimum due process requirements required by Nebraska law. Hearings for the imposition of a penalty shall be separately conducted from requested hearings to contest the issuance of a Cease and Desist Order.
- 11-1.5 Penalties for violating the District's Rules or a Cease and Desist Order include, but are not limited to the following: a reduction in Groundwater Certified Irrigated Acres (in whole or in part); a temporary or permanent reduction in Groundwater Allocation (in whole or in part); a temporary or permanent ban from Pooling; and removing, modifying, and/or refraining from using irrigation equipment or fixtures (e.g. pipelines, wells, pivots). If any removal or modification of irrigation equipment or fixtures is required, then method of the removal or modification is subject to the approval of the District Staff. Specific penalties may be identified in these Rules, or by separate policy, for certain violations. Notwithstanding any specific penalty or penalties identified in these rules, the District may, in its sole discretion, impose whatever penalty or penalties that the District deems necessary and appropriate given the nature, extent, or circumstances of each violation.
- 11-1.5.1. At the discretion of the Board, penalties will be imposed to protect against substantial threats to the public health, safety, or welfare and to prevent further violations of the Rules and Regulations and/or Act.
- 11-1.5.2. Penalties are not limited to an allocation period. If compact call or end of the year allocation adjustments have been made prior to the violation they will be enforced in the next allocation period. If two or more violations occur on the same acres all penalties will be applied.
- 11-1.5.3. Penalties will be imposed to protect against substantial threats to the public health, safety, or welfare and to prevent further violations of the Rules and Regulations and/or Act.

11-1.6 Any Owner/Operator who violates a Cease and Desist Order issued by the District shall be subject to civil penalties pursuant to *Neb. Rev. Stat. § 46-745* or any superseding statute and any other legal action that the Board deems necessary.

11-1.7 Every owner, Operator, or Person subject to these Rules and the Nebraska Ground Water Management Protection Act has a duty to understand, follow, and abide by the contents, requirements, and prohibitions of these Rules and the Nebraska Ground Water Management Protection Act. No Owner, Operator, or Person shall be able to use ignorance of the provisions of these Rules or the Nebraska Ground Water Management Protection Act as defense in any enforcement action or penalty hearing or proceeding.

## **CHAPTER 12 – MISCELLANEOUS**

### **RULE 12-1 ACCESS**

- 12-1 Pursuant to Neb. Rev. Stat. §2-3232, the District has the power and authority to enter upon all lands within the District, after notifying the Owner or Operator, for any reason related to the management and administration of ground water. This entry shall not be considered a trespass.
- 12-1.1 The District hereby provides notice to all Owners and Operators of its intent to enter upon property to verify the installation of Flow Meters or other devices and to read or verify the readings of Flow Meters or other devices used to measure the quantity or quality of ground water used for irrigation.

### **RULE 12-2 SEVERABILITY**

- 12-2 If any rule or any part of any rule herein is declared invalid by a court with jurisdiction to so do, such declaration shall not affect the validity of the remaining portion of these rules and regulations.

## **CHAPTER 13 – ENFORCEMENT OF THE NEBRASKA CHEMIGATION ACT**

### **RULE 13-1 AREA DESIGNATION AND BOUNDARIES**

- 13-1.1 The area subject to these rules and regulations (rules) for the enforcement of the Nebraska Chemigation Act (*Neb. Rev. Stat. § 46-1101 to 46-1148*) is the entirety of the District.

### **RULE 13-2 TITLE 195 N.A.C. AND NEBRASKA CHEMIGATION ACT INCORPORATION**

- 13-2.1 The Middle Republican Natural Resources District (District) hereby incorporates, as part of these rules and regulations, the requirements of Title 195 of the *Nebraska Administrative Code*, as promulgated by the Nebraska Department of Environmental and Energy ("Department") and the provisions of the Nebraska Chemigation Act (*Neb. Rev. Stat. § 46-1101 to 46-1148*), as the same may be amended from time to time.
- 13-2.1.1 Nothing in these rules shall be construed as exempting any person from the Provisions of *Title 195 N.A.C.* or the Nebraska Chemigation Act.

### **RULE 13-3 CHEMIGATION PERMIT**

- 13-3.1 No person within the geographic boundaries of the District shall apply or authorize the application of chemicals to land or crops through the use of Chemigation unless such person obtains a permit from the District.
- 13-3.1.1 A Chemigation Permit is not required to pump or divert water to or through an open discharge system.
- 13-3.2 Any person who intends to engage in Chemigation shall, before commencing Chemigation, apply to the District, on forms provided by the District, for a Chemigation Permit for each injection location.
- 13-3.2.1 The applicant for the Chemigation permit shall be the owner or operator of land who applies or authorizes the application of chemicals to such land by means of Chemigation.
- 13-3.2.2 The person or entity named as the certified Chemigation applicator on the Chemigation permit form provided by the District shall be the person or entity who does the actual Chemigation applications. If the named applicator is unable to provide the Chemigation services, a new permit shall be required.
- 13-3.3 The District shall deny, refuse renewal of, suspend, or revoke a permit applied for or issued pursuant to *Neb. Rev. Stat. § 46-1117* on any of the following grounds: (1) Practice of fraud or deceit in obtaining a permit; or (2) Violation of any of the provisions of the Nebraska Chemigation Act or any standards or rules and regulations adopted or promulgated pursuant to such act.
- 13-3.4 Before the District denies, refuses to renew, suspends, or revokes a permit, it shall send to the applicant or permit holder a notice setting forth the specific reasons for the proposed action. The denial, refusal to renew, suspension, or revocation shall become final ten calendar days after mailing of the notice unless such person, within such ten-day period, gives the District written notice of a request for a hearing.

- 13-3.5 If the District concludes that there is or may be an actual or imminent threat of danger to persons or to the environment by the operation of a Chemigation system, the District shall immediately order suspension of the operation of the system. Any aggrieved person may, within ten days of receipt of an order of suspension pursuant to this section, request a hearing on such order.
- 13-3.6 The Chemigation Permit application shall be accompanied by an Application fee, as determined by the type of permit application. The schedule of the statutory maximum fees is as follows:
- 13-3.6.1 The application fee for a new Chemigation Permit is one hundred fifty dollars (\$150), with five dollars (\$5) of this amount paid by the District to the Department.
  - 13-3.6.2 The application fee for a Chemigation renewal permit is one hundred dollars (\$1,000), with two dollars (\$2) of this amount paid by the District to the Department.
  - 13-3.6.3 The application fee for an emergency Chemigation Permit is five hundred dollars (\$500), with ten dollars (\$10) of this amount paid by the District to the Department.
  - 13-3.6.4 The application fee for a special Chemigation Permit is one hundred fifty dollars (\$150), with five dollars (\$5) of this amount paid by the District to the Department.
- 13-3.7 The District will review the Chemigation permit application, conduct an inspection of the Chemigation system and approve or deny the application within forty-five (45) days after a completed application form is filed.
- 13-3.7.1 Emergency Chemigation permit applications shall be reviewed and approved or denied within two (2) working days after a completed application is filed. A working day shall mean Monday through Friday but shall not include Saturday, Sunday, or a Federal or State holiday. An emergency permit is required for any permit that the applicant needs approved by the District sooner than the forty-five days.

#### **RULE 13-4 INSPECTION AND EQUIPMENT**

- 13-4.1 Employees of the District shall have access at all reasonable times to inspect Chemigation systems and otherwise carry out their duties under the Chemigation Act and these rules.
- 13-4.2 All approved Chemigation permit holders will have their Chemigation system inspected at a minimum of once every 5 years.
- 13-4.2.1 The District will make periodic inspections of Chemigation systems for which no permit has been issued.
- 13-4.3 If a Chemigation permit is not issued following an inspection by District personnel, it is the responsibility of the permit applicant to request the District to perform a re-inspection of the Chemigation system.
- 13-4.4 A reapplication for a new Chemigation permit will be required if two inspections of the Chemigation system have been conducted and the District has denied the permit application or suspended or revoked an existing Chemigation permit.
- 13-4.5 The Chemigation permit holder or applicator is required to be present during inspection of the Chemigation system by District Staff.
- 13-4.5.1 District Staff will not operate any irrigation or Chemigation equipment, nor will District Staff open any electrical control box.
  - 13-4.5.2 The Chemigation system must be started and shut-down during the inspection.
- 13-4.6 District Staff may assist in removal of the chemical injection line check valve and the inspection port if requested by the Chemigation permit holder or applicator. The District, at its expense, will replace a chemical injection check valve that is damaged during the testing process.
- 13-4.6.1 The District will not replace a chemical injection check valve which becomes damaged during removal or reattachment thereof or by any defects in the valve.
- 13-4.7 District Staff will have a limited number of Chemigation equipment parts available for sale during the inspection process, in the event of equipment malfunction.

#### **RULE 13-5 COMPLIANCE AND ENFORCEMENT ACTIONS**

- 13-5.1 Compliance with the Nebraska Chemigation Act shall be an affirmative defense to any civil action, resulting from a person's use of Chemigation.
- 13-5.2 The District will investigate complaints concerning Chemigation systems for which no permit has been issued.

13-5.2.1 If consent of an inspection of the Chemigation system against which a complaint has been filed is denied, the District may obtain a warrant to require the alleged violator to permit all District Staff entry onto his or her land to carry out District duties under the Nebraska Chemigation Act and these rules and regulations.

13-5.3 The applicator or the permit holder shall report an actual or suspected accident related to the use of Chemigation in his or her system to the Department and District within twenty-four hours of its discovery.

13-5.4 Any person found by the District to be in violation of the Nebraska Chemigation Act or any rules and regulations issued pursuant to the act shall be notified by the District of such violation. Each person so notified by the District shall have ten days in which to comply. The District shall make every reasonable effort to obtain voluntary compliance. Voluntary compliance shall not preclude the District from pursuing penalties in the proper court of law based on violations of the act or the rules and regulations. If after such ten-day period the violation has not been corrected, the District shall notify the Department of the violation. The Department shall make a preliminary investigation. If after such investigation the Department determines that there is a violation of the act or rules and regulations, the District or Department shall either revoke the person's Chemigation permit until such time there is satisfactory Compliance or issue an order suspending operation of the Chemigation system until the required permit is obtained.

13-5.4.1 The District may obtain a restraining order, a temporary or permanent injunction, or a Mandatory injunction against the person or persons violating or threatening to violate the Nebraska Chemigation Act or rules and regulations adopted and promulgated under such act.

#### **RULE 13-6 CIVIL PENALTIES FOR VIOLATIONS OF THE NEBRASKA CHEMIGATION ACT**

13-6.1 The District may bring a civil action against any person who: (1) engages in Chemigation without first obtaining a Chemigation permit; (2) engages in Chemigation with a suspended or revoked permit; (3) willfully tampers with or otherwise willfully damages in any way equipment meeting the requirements specified in *Neb. Rev. Stat. § 46-1127*; (4) fails to notify the District or Department of any actual or suspected accident resulting from the use of Chemigation; (5) violates any of the provisions of the Nebraska Chemigation Act for which a specific penalty is not provided. The violators shall be subject to a civil penalty of one thousand dollars (\$1,000.00) for each day at each site where a violation occurs for the first violation and not less than one thousand dollars (\$1,000.00) and not more than five thousand dollars (\$5,000.00) for each site where a violation occurs for each subsequent violation. The District shall recover the costs of the action if a civil penalty is awarded.

## **APPENDIX 1.**

### **GROUNDWATER ALLOCATION FOR IRRIGATION USE:**

1. An allocation is established for all irrigation certified uses in all areas and sub-areas with the exception of the Platte sub-area.
  - 1.1 Base allocation - 12 inches per year.
  - 1.2 Base allocation period - 5 years
  - 1.3 Cumulative allocation - 60 inches
  - 1.4 Allocation period is January 1, 2023 through December 31, 2027;
  - 1.5 Base certification - One hundred (100) percent of certified irrigated acres
  - 1.6 Reserve (unused allocation) from the previous base allocation period may be added to the cumulative allocation for the current base allocation period. Maximum carryover is equal to next base allocation.
  - 1.7 Reserve may be limited in a compact call year.
  - 1.8 Allocation adjustments based on overuse, irrigation and acres
    - 1.8.1 If an Owner or Operator has exceeded the Owner or Operator's base Groundwater Allocation, the Groundwater Allocation for the next Groundwater Allocation period shall be reduced by the number of acre inches, by which said Groundwater Allocation was exceeded in the prior period. Plus, an adjustment of one (1) inch for every inch up to the first three (3) inches and two (2) inches for every inch over three (3) inches of overuse will be applied. These allocation adjustments will be on top of what the producer has already used.
    - 1.8.2 If an owner or operator irrigates any non-groundwater certified acres for only one year with their groundwater, then their groundwater allocation for that well/field will be adjusted two (2) inches for every acre of non-certified acres irrigated up to 12 acres.
    - 1.8.3 If an owner or operator carries a negative groundwater allocation balance into the next allocation period, that owner or operator will not be allowed to use more than their adjusted allocation for that allocation period. No owner or operator is allowed to have two negative balances in consecutive allocation periods.

### **FORECAST**

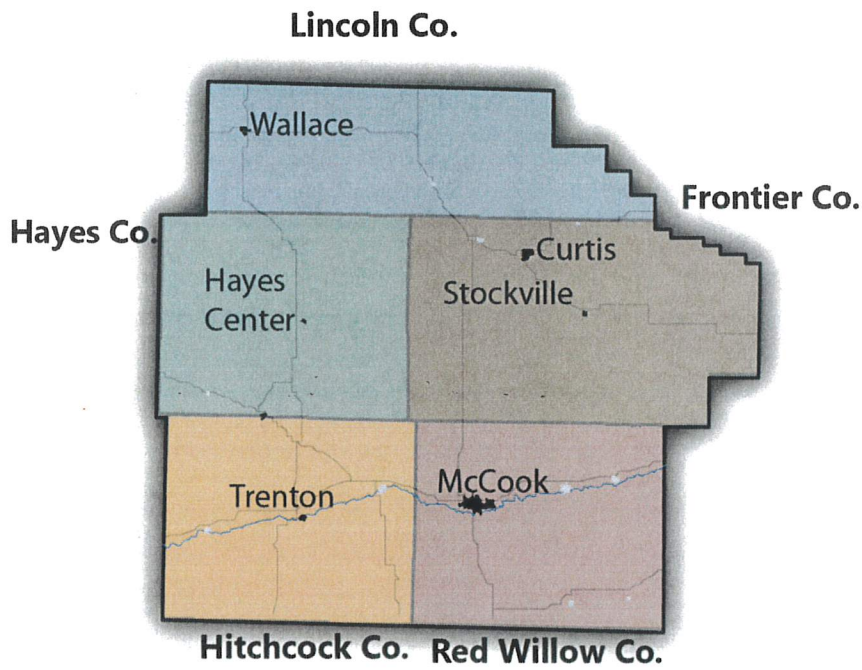
2. Prior to January 1 each year and in accordance with the Integrated Management Plan, the DNR shall accomplish the forecast of allowable stream flow depletions and make a determination of whether a Compact Call Year shall be designated.
  - 2.1 The DNR will calculate the total estimated ground water depletions, the MRNRD share of those depletions and whether either of those amounts exceed the allowable depletions for the forecast year.
  - 2.2 The DNR in conjunction with the MRNRD shall calculate the benefit of current, previously enacted, or cooperative management actions.
  - 2.3 If the benefit from MRNRD management actions is less than the MRNRD share of the amount that forecast stream flow depletions exceed the allowable stream flow depletions, then the base allocation for all certified irrigated acres shall be adjusted.

### **ADJUSTMENTS**

3. Adjustments to base allocation - Compact Call Year.
  - 3.1 No later than at their January Board meeting, the Board shall review the forecast and management action benefits provided by DNR and implement an adjustment to the base allocation, if needed, for administration in a Compact Call Year.
  - 3.2 The adjustment to base allocation shall be sufficient, after considering management actions, to bring the District within its share of any shortfall to allowable depletions
  - 3.3 Reserve may be limited as needed to allow the District to stay within its share of allowable depletions.
4. The Board, at their discretion, may change the base allocation and any or all adjustments to the base allocation in accordance with the procedures established in the Ground Water Management and Protection Act.

Map 1

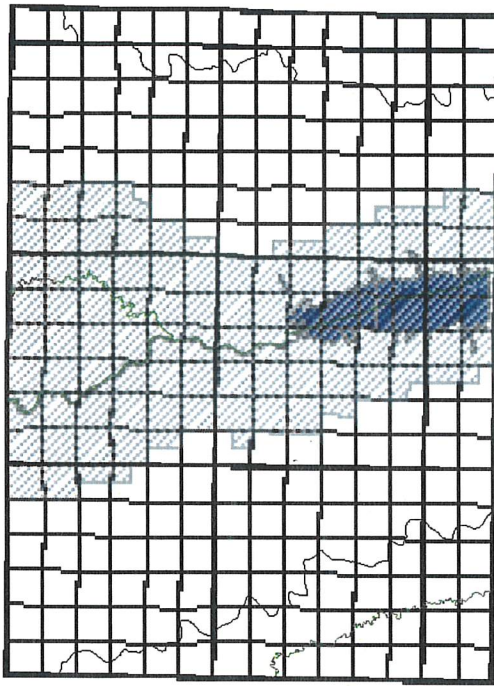
Middle Republican Natural Resources District  
Management Area



# Map 2

Legend

- Swanson QR
- Swanson Lake

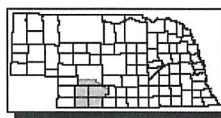
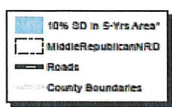
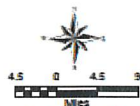
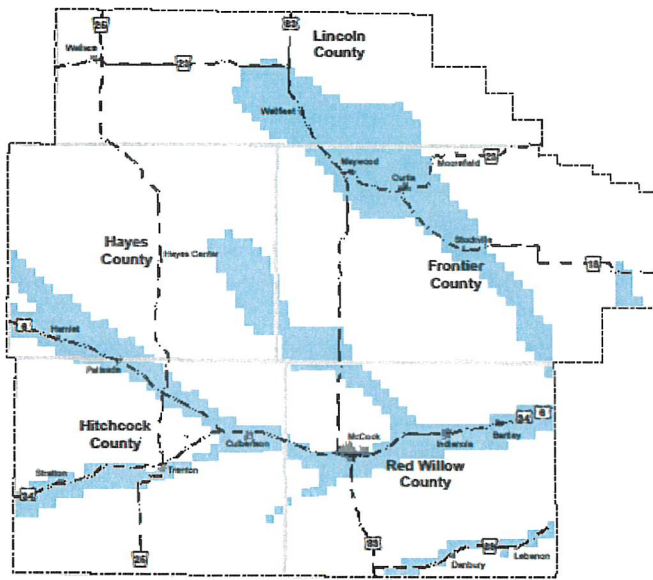


## Swanson Critical Unit

This map was created for informational purposes only.  
Created 09/10/04



**Map 3  
MIDDLE REPUBLICAN  
NATURAL RESOURCES DISTRICT  
10% STREAM DEPLETION IN 5 YEARS AREA**



NAD 1983 StatePlane Nebraska FIPS 2502 (Feet)  
Created by Carol Koch - February 2010  
Modified 2/29 September 2015

\*A detailed map and legal descriptions of affected parcels within the 10% Stream Depletion in 5 Years Area is available at the Middle Republican NRD office.

Middle Republican NRD

Community	2010 Census	Sq. mi.	Area Factor	Gallons/Person/Day			
				15"	14"	13"	12"
Bartley	283	0.7	3				
Culberston	595	0.9	4				
Curtis	939	1.3	6				
Danbury	101	0.9	4				
Hayes Center	214	0.7	3				
Indianola	584	1.2	5				
Lebanon	80	0.2	1				
Maywood	261	0.5	2				
McCook	7698	5.3	22				
Moorefield	32	0.2	1				
Palisade	351	0.4	2				
Stockville	25	0.3	2				
Stratton	343	0.4	2				
Trenton	560	0.6	3				
Wallace	366	0.7	3				
			4.20				
Average Town	829	0.95	4	905	844	784	724

Table 1.

Maximum Reasonable Quantity of Water for Livestock and Poultry  
October 2004

		Drinking water gallon / head / day	Servicing/Flushing gallons / head / day	Quantity/1000 head cbc=1000	
Cattle, Beef		15	0 open lot	17	ac ft
		15	100 cbc	129	ac ft
Cattle, Dairy		35	100 cbc	151	ac ft
Swine	Nursery	1	4 cbc	6	ac ft
	Finishing	5	15 cbc	22	ac ft
	Sow&Litter	8	35 cbc	48	ac ft
	Gestating Sow	6	25 cbc	35	ac ft
Sheep		2	0 open lot	2.2	ac ft
		2	15 cbc	19	ac ft
Horses		12	0 open lot	13	ac ft
		12	100 cbc	125	ac ft
Poultry/100	Chickens	9	200 cbc	2.3	ac ft
	Turkeys	30	400 cbc	4.8	ac ft

Table 2.