

**UPPER REPUBLICAN NATURAL RESOURCES DISTRICT  
RULES AND REGULATIONS ORDER 37  
FOR GROUNDWATER CONTROL**

**Rule 1. DEFINITIONS**

All words, terms, and phrases used herein, unless specifically defined herein, shall be given their common, everyday meaning and usage consistent with the context. The following terms are specifically defined:

- 1.1 **Allocated Acres** shall mean certified irrigated acres that have been approved by the Board to receive an allocation of groundwater.
- 1.2 **Allocation** shall mean the total amount of groundwater granted by the Board to a groundwater user within the allocation period. For purposes of allocated certified irrigated acres within a certified irrigated tract, this amount includes the base allocation and the carryforward from prior allocation periods.
- 1.3 **Allocation Period** shall mean the period of time over which the allocation is authorized to be used.
- 1.4 **Annualized Allocation** shall mean an amount of groundwater equal to the base allocation divided by the number of years in the allocation period.
- 1.5 **Applicator** shall mean any person engaged in the application of chemicals by means of chemigation. Applicator shall include any person operating equipment used for chemigation whether for himself or herself or on behalf of the permitholder for the land on which the chemigation will take place.
- 1.6 **Base Allocation** shall mean the amount of groundwater granted by the Board to a certified irrigated acre within a certified irrigated tract for an allocation period.
- 1.7 **Best Management Practices** shall mean activities, maintenance procedures, and other management practices utilized to prevent or reduce present and future contamination of groundwater, which may include irrigation scheduling, proper rate and timing of fertilizer and pesticide application, and other fertilizer and pesticide management programs.
- 1.8 **Board of Directors** or **Board** shall mean the elected Board of Directors of the Upper Republican Natural Resources District.
- 1.9 **Carryforward** shall mean any unused portion of an allocation that the Board of Directors has authorized to be carried forward to the subsequent allocation period.
- 1.10 **Certified Irrigated Acre** shall mean any acre of ground that is authorized by the District to be irrigated using groundwater.

- 1.11 **Certified Irrigated Tract** shall mean an irrigated tract of land consisting of certified irrigated acres.
- 1.12 **Certified Laboratory** shall mean any laboratory within or outside the State of Nebraska certified and approved by the Nebraska Department of Water, Energy, and Environment.
- 1.13 **Chemical** shall mean any fertilizer, fungicide, herbicide, or pesticide mixed with the water supply for application through chemigation.
- 1.14 **Chemigation** shall mean any process whereby chemicals are applied to land or crops in or with water through an on-farm irrigation system.
- 1.15 **Compact Call Year** shall mean a year in which the Department of Water, Energy, and Environment's forecast procedures, outlined in Section IX of the Integrated Management Plan, indicate the potential for non-compliance if sufficient surface water and groundwater controls and/or management actions are not taken.
- 1.16 **Consumptive Use**, for purposes of the water use activities described in these rules, shall mean the amount of water that is consumed for the purposes for which the appropriation or other legally permitted use is lawfully made.
- 1.17 **Contamination or Contamination of Groundwater** shall mean nitrate-nitrogen or other chemical that enters the groundwater due to the action of any person and causes degradation of the quality of groundwater.
- 1.18 **Council** shall mean the Environmental Quality Council.
- 1.19 **Decertified Acres** shall mean acres previously certified to receive groundwater for irrigation that have subsequently had such certification revoked by the District or by the owner's certification of non-irrigated status. Decertified Acres shall no longer receive allocation and are no longer authorized to be irrigated unless re-certified.
- 1.20 **District** shall mean the Upper Republican Natural Resources District, which encompasses Chase, Dundy, and Perkins Counties, in the State of Nebraska.
- 1.21 **Fertilizer** shall mean any formulation or product used as a plant nutrient and/or intended to promote plant growth distributed on lands within the District, containing one or more plant nutrients recognized by the Association of American Plant Food Control Officials in its official publications.
- 1.22 **Floating Township** shall mean a set of thirty-six (36) sections lying in a contiguous block, such that the area is six (6) sections east to west and six (6) sections north to south, designated by the section that forms the northwest corner of the floating township.
- 1.23 **Flowmeter** shall mean a measuring device of the type and design which shall meet the standards and specifications for installation, operation, and maintenance as

established by the District. Every flowmeter shall be a District approved device which measures and totalizes the amount of groundwater withdrawn from a well.

1.24 **Groundwater Irrigation Runoff** shall mean groundwater used for irrigation purposes which escapes from land owned, leased, or otherwise under the control of a groundwater user. Groundwater that becomes commingled with surface water runoff shall be treated as irrigation runoff; except that groundwater irrigation runoff, whether commingled with surface water or not, which reaches a stream becomes surface water and is not subject to these rules and regulations.

1.25 **Groundwater Quality Controls** shall mean the rules and regulations adopted for groundwater quality management based on the four (4) phase program defined in Rules 1.35 , 1.36, 1.37, and 1.38, and as otherwise authorized by state statute.

1.26 **Groundwater User** shall mean any person who extracts, withdraws, or confines groundwater for any use by any person. The term groundwater user shall include the operator.

1.27 **Historical Consumptive Use** shall mean that amount of water that in prior years was consumed for the purposes for which the appropriation or other legally permitted use was lawfully made.

1.28 **Improper Groundwater Irrigation Runoff** shall mean the occurrence of groundwater irrigation runoff which causes or contributes to the: (a) accumulation of water upon or beneath the surface of the lands of any person to their detriment, damage, or inconvenience; (b) deterioration of water quality by depositing sediment and/or associated chemicals in surface water within the Management Area; or (c) non-beneficial use of groundwater. Improper groundwater irrigation runoff is subject to the General Enforcement Provisions of these rules and regulations.

1.29 **Injection location** shall mean each site where chemicals will be applied through an irrigation distribution system.

1.30 **Installer** shall mean the person that installs meters, pumps, or other components on the groundwater user's irrigation equipment.

1.31 **Irrigation distribution system** shall mean any device or combination of devices having a hose, pipe, or other conduit, which connects directly to any source of ground or surface water, through which water or a mixture of water and chemicals is drawn and applied for agricultural or horticultural purposes. Irrigation distribution system shall not include any hand-held hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

1.32 **Management Area** shall mean all of Perkins, Chase, and Dundy Counties.

- 1.33 **Meter** shall mean a District approved device that measures and totalizes the amount of water flowing from a well.
- 1.34 **Offset** shall mean a water use retired or decertified in sufficient amounts, based on stream flow depletion factors and historical use, to allow for a new use to be granted.
- 1.35 **Open discharge system** shall mean a system in which the water is pumped or diverted directly into a ditch or canal in such a manner that the force of gravity at the point of discharge into the ditch or canal cannot cause water to flow back to the point from which the water was pumped or diverted.
- 1.36 **Permitholder** shall mean the owner or operator of land who applies or authorizes the application of chemicals to such land by means of chemigation. The permitholder shall be the party primarily responsible for any liability arising from chemigation on the property.
- 1.37 **Person** shall mean a natural person, partnership, limited liability company, association, corporation, irrigation district, municipality, agency, or political subdivision of the State or department, agency, or bureau of the United States. All pronouns are inclusive and mean person.
- 1.38 **Pesticide** shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, insect, rodent, nematode, fungus, weed, or other form of plant or animal life or virus, except viruses on or in living humans or animals, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- 1.39 **Phase I Area** shall mean an area within the District designated by the Board, in which the nitrate-nitrogen concentration is less than 5.0 mg/l.
- 1.40 **Phase II Area** shall mean an area within the District designated by the Board, in which the nitrate-nitrogen concentration is between 5.0 mg/l and 10.0 mg/l, is decreasing over the past 5 years, and comprises more than 50% of six adjacent sections.
- 1.41 **Phase III Area** shall mean an area within the District designated by the Board, in which the nitrate-nitrogen concentration is between 5.0 mg/l and 10.0 mg/l and increasing over the past 5 years and comprises more than 50% of six adjacent sections.
- 1.42 **Phase IV Area** shall mean an area within the District designated by the Board, in which the nitrate-nitrogen concentration is greater than 10.0 mg/l and comprises more than 50% of six adjacent sections.
- 1.43 **Pipe** shall mean a tube of any material used to convey water.
- 1.44 **Point Source** shall mean any discernible, confined and discrete conveyance, including, but not limited to, any pipe, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel, other floating craft, or other conveyance over which the Department of Water, Energy, and Environment has regulatory authority and from which a

substance which can cause or contribute to contamination of groundwater is being or may be discharged.

1.45 **Pooling** shall mean an authorization by the Board, to use averaged groundwater allocations on specified lands.

1.46 **Rapid Response Area** shall mean the area with a stream flow depletion factor of ten (10) percent or more in a five (5) year period as illustrated in Appendix A to these Rules and Regulations.

1.47 **Restricted Use Pesticide** shall mean a pesticide classified as a restricted-use pesticide by the United States Environmental Protection Agency, a state-limited-use pesticide, or any pesticide for which an exemption under section 136p of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136, et seq., has been granted.

1.48 **Subirrigation** or **Subirrigated Land** shall mean the occurrence of a groundwater table within the root zone of agricultural vegetation, ten (10) feet or less below the surface of the ground.

1.49 **Supplier** or **Dealer** shall mean the person that sells or provides meters to an installer, groundwater user, or the District.

1.50 **Transport** shall mean the actual movement of water from one point to another by physical and/or mechanical means.

1.51 **Violation** shall mean the disregard of or noncompliance with any cease and desist order issued by the District, the Groundwater Management and Protection Act, or any orders, controls, rules, or regulations adopted by the District. Any person who commits a violation shall be subject to any enforcement provisions and sanctions provided by law and to the controls, rules, regulations, and remedies enacted by the District, including, but not limited to the reduction of any allocation or of irrigated acres previously certified by the District.

1.52 **Water Short Year** shall mean a year in which the projected or actual irrigation supply is less than 119,000 acre-feet of storage available for use from Harlan County Lake, as determined by the United States Bureau of Reclamation for the Republican River Compact Administration.

1.53 **Well** shall mean any water well, as defined by state statute. For the purposes of these rules and regulations, wells are further defined and classified as follows:

**1.53.01 Domestic Wells** are wells used by a person or by a family unit or household for normal household uses and for the irrigation of lands not exceeding two (2) acres in area for the growing of gardens, orchards, and lawns, and keeping domestic animals. Such wells are exempt from application of these rules.

**1.53.02 Irrigation Wells** are wells that are used for the pumping of groundwater to irrigated acres for the production of forage or crops.

Such wells must have certified irrigated acres, and all water pumped by such wells must be measured with a flowmeter located in the District.

**1.53.03 Livestock Wells** are wells used for the watering of livestock and other uses directly related to the operation of a feedlot or other confined livestock or dairy operation. Commercial livestock wells are livestock wells serving facilities permitted for more than 12,000 animal units and must have an allocation, and all water pumped by such wells must be measured with a flowmeter located in the District. Livestock wells which are used for the watering of range livestock, directly related to the operation of a pasture or range, are exempt from metering and allocation restrictions.

**1.53.04 Back-up Wells** are livestock, commercial or industrial wells which operate only in emergencies when the primary well fails. Back-up wells shall not normally be operated simultaneously with the primary well. Any water pumped from back-up wells shall be counted against the allocation for the well it backs up and must be measured with a flowmeter located in the District.

**1.53.05 Industrial or Commercial Wells** are wells used in manufacturing and commercial operations, and/or watering and maintenance of golf courses. Such wells must have an allocation, and all water pumped by such wells must be measured with a flowmeter located in the District.

**1.53.06 Public Water System Wells** are wells used by villages, towns, cities, or rural water districts for providing the public with water. Such wells must have an allocation and all water pumped by such wells must be measured with a flowmeter located in the District.

**1.53.07 Commingled Wells** are water wells that are commingled, combined, clustered, or joined with another water well or wells or other water source. Such wells shall be considered one (1) water well and the combined pumping capacity shall be used as the rated capacity. Such wells with a combined capacity of fifty (50) gallons per minute or more must have an allocation, and all water pumped by such wells must be measured with a flowmeter located in the District. Commingled wells used for range livestock or domestic purposes are not required to be metered or have an allocation.

**1.53.08 Replacement Well** as defined in Neb. Rev. Stat. § 46-602, replaces an existing water well and is subject to the same provisions as the water well it replaces.

**1.53.09 Abandoned Well** shall mean a well as defined by Neb. Rev. Stat. § 46-1204.01.

**1.53.10 Inactive Status Well** shall mean a well as defined by Neb. Rev. Stat. § 46-1207.02. The owner of any permitted well must notify the District and the Nebraska Department of Natural Resources when an active well is placed in inactive status.

**1.53.11 Monitoring Well** shall mean a well as defined by 178 NAC 12.002, Nebraska Health and Human Services System.

**1.53.12 Observation Well** shall mean a well as defined by 178 NAC 12.002, Nebraska Health and Human Services System.

**1.53.13 Illegal Well** shall mean a well as defined by Neb Rev. Stat. § 46-706(5) and 46-1207.01.

1.54 **Well Permit** shall mean the written authorization, granted by the Board, with conditions for construction of a new well or a replacement well.

1.55 **Working day** shall mean Monday through Friday but shall not include Saturday, Sunday, or a federal or state holiday. In computing two working days, the day of receipt of the permit is not included and the last day of the two working days is included.

1.56 **Variance** means (a) an approval to deviate from a restriction imposed under subsection (1), (2), (8), or (9) of section 46-714 or (b) the approval to act in a manner contrary these rules or regulations, authorized by the District's Board of Directors.

## **Rule 2. WELL PERMITS AND FLOWMETERS**

2.1 All new and replacement wells, except domestic wells, monitoring wells, observation wells, and livestock wells that are designed and constructed to pump fifty gallons per minute or less, shall require a permit prior to construction.

2.2 Each well requiring a permit shall be equipped with a flowmeter which shall be installed, operated, and maintained in accordance with the following standards and specifications:

(a) Meters must be approved by the District prior to installation. The meter shall have a means of sealing the meter in the pipe and of sealing the registry to prevent unauthorized tampering or removal. Flow meters that require an external power source are not approved for use in the District.

2.3 Each meter shall be installed and calibrated to pipe size.

2.4 The meter registry shall have a visual volume recording totalizer, which shall record in acre-feet, acre-inches, or U.S. gallons.

2.5 The meter registry shall be protected from the elements and able to be inspected by District staff at all times. Totalizers shall have sufficient capacity to record the quantity of

water diverted from each well for a period of one (1) year. Totalizers shall be direct reading and the multiplier, by which the rate of flow can be determined by timing, shall be clearly indicated.

2.6 Any meter within the District's telemetry coverage area shall be capable of transmitting register readings in acre-inches to the District telemetry or AMI network or be installed with a compatible AMI transmitting device compatible with the District's AMI telemetry network. The District will supply one conversion kit or compatible device per well. The well owner is responsible for all replacement equipment or any equipment they opt to use in lieu of the District provided equipment.

2.7 The meter shall have a rated accuracy of plus or minus two (2) percent of actual flow within the range of flow for which the meter is designed. The flow rate of the well upon which the meter is installed must be within the designed range of flow of the meter. The meter shall be capable of accurately registering the expected operating range of discharge.

2.8 The meter shall have a pressure rating to fit the application used within its designed pressure range.

2.9 The meter size, serial number, and the direction of flow shall be clearly marked and provided to the District. The inside pipe diameter for which the meter has been calibrated shall be to the nearest 0.001 of an inch.

2.10 The meter shall be installed in accordance with the manufacturer's specifications and in such manner that there will be a full pipe flow of water at all times while water is being measured.

2.11 The meter shall be placed in the pipe, with the centerline of the meter shaft not less than five (5) pipe diameters downstream from any valve, elbow or other obstructions, which might create turbulent flow, or as recommended by the manufacturer. There shall also be at least one (1) pipe diameter of unobstructed flow on the downstream side of the meter propeller, or as recommended by the manufacturer.

2.12 Installations that are unable to meet the above spacing requirements may receive approval by the District, upon testing and certification with an ultrasonic flowmeter.

2.13 Flow straightening devices may be required in installations where the District determines the installed flowmeter to be inaccurate without such devices installed.

2.14 Any meter propeller shaft shall be positioned parallel to and aligned with the centerline of the pipe.

2.15 Meters shall be kept clear of debris and other material which might impede operation.

2.16 No person shall willfully damage, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere with or tamper with any flowmeter within the Management Area.

2.17 The District staff may periodically check flowmeters on a random basis for reading and proper operation. The District staff may seal all flowmeters into the pipe upon which they are installed to prevent tampering with the flowmeter. No tamper proof seal shall be removed without prior approval of the District.

2.18 Any malfunctioning flowmeter must be reported to the District Office at Imperial, Nebraska, within seven (7) days.

2.19 The District may require any groundwater user to provide information to enable the District staff to determine the amount of energy used to operate any well on which a meter is required. The groundwater user shall provide such information, or the groundwater user shall authorize the District staff to procure such information from the power provider. The District staff shall seek such information in the event a flowmeter is malfunctioning, or if either the owner or operator or the District staff has reason to believe the flowmeter reading is incorrect. If any power source on any well within the Management Area is equipped with an hour meter, the District may require the groundwater user to provide appropriate readings from said hour meter.

2.20 Each well in a series of comingled wells that are connected to serve multiple points of use shall be metered.

### **Rule 3. IRRIGATED ACRES AND TRACTS**

3.1 Every groundwater user shall report to the District, as requested on District forms, information on lands owned by them or under their control: crops grown, application rates of fertilizer and chemicals, and other practices as needed for the District to carry out its responsibilities related to groundwater management.

3.2 Certified irrigated tracts shall be identified by government survey descriptions. In all cases, the description of each groundwater user's irrigated tract or tracts, as contained in any recorded deed or lease, shall be definitive.

3.3 Certified irrigated acres added to certified irrigated tracts for supplemental allocation, with the stipulation of the additional acres not being irrigated, are limited to 20% of the certified acres that are irrigated.

3.4 No replacement well shall irrigate a greater number of certified acres than the well it replaced.

3.5 Only certified acres may be irrigated using groundwater. No additional acres shall be irrigated without prior approval by the District. The District shall consider the District's proportional responsibility for maintaining Nebraska's compliance with the Republican River Compact and any impairment to other water users prior to granting any such approval.

### **Rule 4. WELL SPACING**

4.1 Spacing of all wells for which District permits are required, regardless of ownership and classification, must be approved by the Board prior to drilling the well. New

wells must comply with Neb. Rev. Stat. §§ 46-609 and 46-651 in addition to the District's spacing requirements.

4.2 New Wells - Any irrigation well, commercial livestock well, industrial well, or public water system well must be at least 600 feet from any domestic well or range livestock well, 2,640 feet from any public water supply well, and 1,000 feet from any other well not belonging to the owner of the land upon which the new well is established.

4.3 Replacement Wells - Except as provided in 4.01.02(a), any replacement irrigation well, replacement commercial livestock well, replacement industrial well, or replacement public water system well must be at least 600 feet from any domestic well or range livestock well, 2,640 feet from any public water supply well, and 1,000 feet from any irrigation well, commercial livestock well, or industrial well not belonging to the owner of the land upon which the replacement well is constructed.

- (a) If the well to be replaced is within 600 feet of a domestic well or range livestock well, within 2,640 feet of any public water supply well, or within 1,000 feet of any irrigation well, commercial livestock well, or industrial well not belonging to the owner of the land upon which the replacement well is to be established, the replacement well must be drilled within 150 feet of the well it replaces, unless drilled in a location that meets spacing requirements in 4.3.

4.4 No new or replacement well may be drilled closer to an existing well than provided above, unless all owner(s) of any existing well(s) execute a notarized waiver of the spacing protection provided by this rule which shall be filed with the District. In no event shall a well be drilled within 150 feet of any domestic or range livestock well owned by another individual or closer than any statutory limitations.

## **Rule 5. CONNECTING WELLS**

5.1 No wells shall be connected for any purpose or use without prior approval of the District, except those used for range livestock purposes or those used for domestic purposes. In considering a request for such approval, the Board shall consider impairment of other water users, ownership, Nebraska Department of Natural Resources registration, and any other relevant information.

5.2 All wells proposed to be connected shall be legally registered with the Nebraska Department of Natural Resources, with ownership current prior to the submission of any request.

## **Rule 6. ALLOCATIONS OF GROUNDWATER**

6.1 The Board shall by order set the irrigation allocation, the allocation period, any limitations on the amount of groundwater that can be used for irrigation during the allocation period or in any given year, and penalties for overuse of allocation.

6.2 Groundwater users pumping less than the total of their base irrigation allocation and their carryforward from prior allocations may carryforward the unused balance to subsequent allocation periods at the expiration of the current allocation period. Unless otherwise limited by a separate order, any overuse of allocation and penalties that exceed prior allocations and carryforward will be deducted from subsequent allocation periods' allocation as prescribed in 6.3.

6.3 Any allocation or carryforward lost via penalty reduction of allocation may be restored up to the amount by which the groundwater user underuses their base allocation in the following allocation period, not to exceed the inches lost from imposition of the penalty. The provision to earn back penalties will expire at the end of 2027.

6.4 Certified irrigated acres enrolled in any land or irrigation retirement program including, but not limited to the Federal Conservation Reserve Program, Environmental Quality Incentive Program, Conservation Reserve Enhancement Program, or other incentive programs retiring land or irrigation shall not receive an allocation while enrolled. Certified irrigated acres being removed from any retirement program shall be granted a base allocation prorated to the years remaining in the current allocation period. In addition, upon removal from the land or irrigation retirement program, each certified irrigated acre shall receive the total of the carryforward accumulated at the time of enrollment in the program.

6.5 All commercial livestock, commercial or industrial, and municipal wells shall have an allocation prior to operation. The owner of each well, prior to operation, must apply for and be granted an allocation

6.6 Commercial livestock, commercial or industrial, and municipal uses shall be allocated 105% of their maximum use during the 2013-2024 period multiplied by the number of years in the allocation period, set by order of the board. Additional allocation for commercial livestock, commercial or industrial, or municipal use shall be granted only if a full offset is provided by the well owner, for any portion of new allocation in excess of 40 acre-feet or the prior allocation, whichever is greater.

6.7 Allocations for any and all wells may be amended, reduced, increased, or made subject to limitations or conditions by the Board upon notice and hearing.

6.8 The District shall institute formal adjudicatory proceedings and initiate any action provided by law to prohibit further withdrawal of groundwater in the event any groundwater user exhausts or exceeds his allocation prior to the termination of the applicable allocation period and continues to use groundwater or in any other manner violates the amount, limitation, or any other conditions as established by these rules and regulations or by order of the District.

## **Rule 7. Pooling of groundwater allocations**

7.1 The Board may approve pooling of groundwater allocations granted to irrigated tracts with a common interest in ownership or tenancy.

7.2 Pooling applications approved prior to the adoption of these rules and regulations will be recognized, unless the owner requests in writing that the pooling application to be terminated.

7.3 All pooling applications shall be subject to the following limitations:

- 1) Beginning and carryforward allocations of tracts will only be averaged across tracts during the first year of an allocation period when requested by owners of all tracts involved.
- 2) The annual average use of all tracts in a pool shall be used to calculate the use and remaining allocation of each tract in the pool.
- 3) All wells in a pooling application must be within a 9 section by 9 section area set on section lines.
- 4) The carryforward allocation of any tract added to an existing pool shall be limited to three (3) years of annualized allocation, if the allocations are requested to be averaged (equalizing allocation by transferring allocation amongst pooled tracts). This includes tracts previously added to the pool but not averaged at the time of inclusion.
- 5) The pooling application shall be denied or conditioned to the extent that it is necessary to (1) ensure the consistency of the application with the purpose or purposes for which the Management Area was designated, (2) prevent adverse effects on other groundwater users or on surface water appropriators, (3) meet the District's proportional responsibility for maintaining Nebraska's compliance with the Republican River Compact, and (4) otherwise protect the public interest and prevent detriment to the public welfare.
- 6) An incomplete pooling application shall be returned for correction. If correction is not made within sixty (60) days, the application shall be cancelled.

7.4 Pooling applications between individuals, partnerships, corporations, and other owners of certified irrigated tracts require the signature of the owner or a party with appropriate power of attorney, together with proof of ownership for each irrigated tract included in the pooling application.

7.5 Proof of ownership for each irrigated tract must be provided prior to termination of any pooling contract.

7.6 Certified irrigated acres enrolled in any land or irrigation retirement program including, but not limited to the Federal Conservation Reserve Program, Environmental Quality Incentive Program, or Conservation Reserve Enhancement Program shall not be included in a pooling application.

7.7 If a change of ownership of any certified irrigated tract in a pooling application occurs the unused groundwater allocation shall remain with that tract and the remaining tracts shall remain pooled.

7.8 If a pooling application is terminated or a tract is removed from a pooling application at the request of the owner the unused groundwater allocation for the certified irrigated tracts shall remain with each tract.

7.9 Consideration of pooling applications shall occur at regularly scheduled meetings of the Board of Directors as an agenda item. Pooling applications are not evaluated using an adjudicatory process and are not subject to appeal.

## **Rule 8. PROCEDURES TO OFFSET NEW OR CHANGES IN GROUNDWATER USE**

8.1 Pursuant to Neb. Rev. Stat. 46-715(3) a procedure is hereby created to allow new uses while tracking and accounting for depletions to streamflow and ensuring new uses or changes to existing uses don't have more than a de minimis impact on existing water users' ability to use water.

8.2 Offsets for new uses to mitigate impacts for new depletions or consumptive use can be made by retiring existing consumptive uses, within a floating township, or as otherwise authorized by the District.

8.3 Offsets shall be credited based on the amount of historical use retired, adjusted as necessary for consumptive use, depletions to streamflow, and future irrigation allocation reductions.

8.4 Offsets for a new irrigation use provided within a floating township for the purpose of improving irrigation efficiency or soil type to be irrigated may be done without reducing certified acres or allocation based on historical use limitations.

8.5 Allocation for new irrigation uses with offsets outside the floating township shall be limited to the remaining base allocation of the acres retired as offset.

8.6 Application for a new irrigation use must be submitted by January 31<sup>st</sup> or September 30<sup>th</sup>, for action in March and November, respectively.

8.7 Historical use shall be calculated using the average use for the period 2013-2022.

## **Rule 9. REPUBLICAN RIVER COMPACT COMPLIANCE**

9.1 Compact Call Year Determination: No later than the 15th day of November of each year, the Nebraska Department of Water, Energy and the Environment shall inform the District of a potential designation of a Compact Call Year for the upcoming irrigation season. Upon receipt of such determination, the District shall provide notice of such designation to irrigators and all other interested parties, as provided by these rules and regulations and

Nebraska law. The Board shall consider and adopt any additional actions necessary to meet the District's proportional responsibility for maintaining Nebraska's compliance with the Republican River Compact.

9.2 Additional controls and actions may consist of, but are not limited to, incentive programs, regulations (inclusive of curtailments of groundwater pumping by wells within the Rapid Response Area), augmentation, management practices, and any other relevant activity.

9.3 Municipal and other public water systems, industrial, and commercial livestock allocations shall be exempt from Compact Call Year controls.

9.4 For the wells within the Rapid Response Area, the allocation during a Compact Call Year shall be set at the maximum allowable that would not cause the District's depletions to streamflow to exceed the District's allowable groundwater depletions after taking into consideration other actions and controls that the District would implement. As outlined in the Integrated Management Plan, the Nebraska Department of Water, Energy, and Environment will perform all calculations relating to the District's forecasted allowable groundwater depletions, forecasted depletions, and potential yield from implementing actions and controls.

#### **Rule 10. Environmental, Recreation, and Wildlife Uses of Groundwater**

10.1 Applications may be made to the Board to withdraw groundwater from a well within the District, transport that water off the overlying land, and use it to augment water supplies in any stream or wetland within the District for the purpose of benefiting fish or wildlife or producing other environmental or recreational benefits. Any such application shall be evaluated in consideration of all the factors described in this section and of those considerations described in Neb. Rev. Stat. § 46-691.03. Any permit authorizing a transfer for such purposes shall be subject to conditions imposed by the Board and to all requirements of Neb. Rev. Stat. § 46-691.03.

#### **Rule 11. MORATORIUM**

11.1 Pursuant to Neb. Rev. Stat. §46-739(1), to achieve the purposes for which the Management Area was designated, there shall be no additional permits to construct a new water well issued nor shall there be an increase of irrigated acres on existing wells within the entirety of the District, unless existing uses are retired to offset new uses pursuant to Rule 8.

11.2 Livestock, industrial, or commercial, public water system wells, and all wells that do not require a permit are exempt from Rule 11.1.

- (a) Exemption under Rule 11.1 does not imply exemption from well spacing requirements (Rule 4) or offset requirements for allocation to be granted (Rule 8).

## **Rule 12. Variances**

12.1 Persons seeking a variance to these rules and regulations must make application to the District on forms provided by the District. An application will be considered submitted when completed in full with payment of any and all fees required.

(a) Standard variance application fee shall be \$150.

12.2 Fees for any variance which includes required offset of uses outside of a floating township shall be \$500.

12.3 Variance applications for a new irrigation use or well must be submitted by January 31<sup>st</sup> or September 30<sup>th</sup>, for hearings in March and November, respectively.

## **Rule 13. GROUNDWATER QUALITY**

13.1 The Board shall implement procedures to monitor and protect the quality of the groundwater in aquifers underlying the District. The District will conduct two sampling programs to determine and address nitrate-nitrogen concentration concerns within the District. One program will examine the general “health” of the aquifer by analyzing the nitrate-nitrogen concentration in the District’s groundwater caused by farm practices and the other program will target human health concerns.

13.2 Phase Designations

(a) The District is divided into four phase designations based on the nitrate-nitrogen concentration and whether the concentration is increasing or decreasing. Each phase designation has different fertilizer and farm management recommendations and/or requirements. Phase I, Phase II, Phase III, and Phase IV areas are defined in Rule 1 of these rules and regulations. Phase areas will be periodically reassessed as necessary by the District and will use the prior 5 years data during the assessment.

13.3 The District has developed a groundwater sampling program to sample registered irrigation wells throughout the District. A sample from each well in the program will be collected and analyzed to determine the nitrate-nitrogen concentration in the groundwater at that location. Samples will be collected annually in the summer.

13.4 Phase I Designation Area Rules.

(a) Nitrate-nitrogen concentration is less than 5.0 mg/l (ppm).

**13.4.01** The District will recommend that applicators/operators enroll in and review the University of Nebraska-Lincoln (UNL) Extension on-line training program - Irrigation and Nitrogen Management User Education/Certification Program, although the District does not require or offer certification in this program.

**13.4.02** The District will recommend that applicators/operators perform soil testing, analyze groundwater quality, and apply nitrogen fertilizer based on the UNL-recommended rates.

**13.4.03** The District will recommend that operators use nitrogen inhibitors, slow-release coated fertilizer, or split applications and do not apply fertilizer in fall or winter on row crops.

### 13.5 Phase II Designation Area Rules

(a) Area where the nitrate-nitrogen concentration is between 5 mg/l and 10 mg/l, decreased from the beginning to end of the previous 5 year period and comprises more than 50% of six adjacent sections.

**13.5.01** All Phase I requirements apply.

**13.5.02** Prior to November 1 (for the subsequent growing season), applicators/operators may not apply commercial nitrogen fertilizer or liquid manure for row crops.

**13.5.03** After November 1, applicators/operators must use split applications (i.e. pre-plant/pre-emergent and sidedress (post-emergent)) for applications greater than 100 pounds of actual nitrogen/acre or use a nitrification inhibitor or slow-release coated fertilizer. The operator must furnish dealer certification and documentation that the inhibitor or slow-release coated fertilizer was used at the UNL recommended rate, if requested.

### 13.6 Phase III Designation Area Rules

(a) Area where the nitrate-nitrogen concentration is between 5 mg/l and 10 mg/l, decreased from the beginning to end of the previous 5 year period, and comprises more than 50% of six adjacent sections.

**13.6.01** All Phase II requirements apply.

**13.6.02** Prior to November 1, applicators/operators may not apply commercial nitrogen fertilizer or liquid manure for row crops.

**13.6.03** After November 1 and prior to March 1, applicators/operators may not apply commercial nitrogen fertilizer or liquid manure, except application rates of less than 20 pounds/acre of actual nitrogen on fall or spring seeded crops will be allowed.

**13.6.04** After March 1, applicators/operators must use split applications (i.e. pre-plant/pre-emergent and sidedress (post-emergent)) for applications greater than 100 pounds of actual nitrogen/acre or use a nitrification inhibitor or slow-release coated fertilizer. The operator

must furnish dealer certification and documentation that the inhibitor or slow-release coated fertilizer was used at the recommended rate and attached to the report form. The report form will be completed online through a portal on the District's website.

**13.6.05** Applicators/operators shall not apply nitrogen fertilizer at rates that exceed crop need based on UNL-recommended fertilizer rates for corn, wheat, potatoes, sorghum, and soybeans.

**13.6.06** Applicators/operators must take annual soil samples from fields in which nitrogen fertilizer or manure will be applied. Surface (0 inches to 8 inches) and sub-surface (8 inches to 24 inches) samples must be taken for residual nitrate/nitrogen on each field or 80-acre tract, whichever is smaller, with the analysis to be conducted by a laboratory participating in the University of Nebraska Soil Testing Program. The results of the analysis shall be attached to the report form.

**13.6.07** Applicators/operators must conduct irrigation scheduling.

**13.6.08** If manure or sludge is applied to the field, applicators/operators must use a credit for the nitrogen in the manure or sludge used in the calculation for the nitrogen fertilizer recommendation. A laboratory analysis must be conducted for each source of manure or sludge and attached to the report form.

**13.6.09** If the previous year's crop was a legume (e.g. beans, alfalfa, etc.), applicators/operators must use a credit in the nitrogen fertilizer recommendation.

**13.6.10** Owner/operator must submit completed District reporting form, annually, which include crops, applicable test results, water applied, N applied, etc.

**13.6.11** Applicators/operators must attend a nitrate and irrigation management education program provided by the URNRD.

### 13.7 Phase IV Designation Area Rules

(a) Area where the nitrate-nitrogen concentration is greater than 10 mg/l and comprises more than 50% of six adjacent sections.

**13.7.01** Except as superseded below, all Phase III requirements apply.

**13.7.02** Prior to March 1, applicators/operators may not apply commercial nitrogen fertilizer or liquid manure for row crops.

**13.7.03** After March 1, applicators/operators must use split applications (i.e. pre-plant/pre-emergent and sidedress (post-emergent)) for

applications greater than 100 pounds of actual nitrogen/acre or use a nitrification inhibitor or slow-release coated fertilizer. The operator must furnish dealer certification and documentation that the inhibitor or slow-release coated fertilizer was used at the recommended rate and attached to the report form.

13.8 The District will sample and analyze water samples from all registered domestic wells once every five years.

13.9 The District will send a letter to each well owner informing them of the nitrate-nitrogen test results.

13.10 If a well's nitrate-nitrogen concentration was greater than 10 mg/l, then the District will review the well's available construction information and request to visit the well site. The purpose of the site visit will be to evaluate whether the high nitrate-nitrogen concentrations may have been caused by a nitrate point source (i.e. fertilizer spill, feedlot, etc.).

13.11 After the site visit, the District will notify in writing the well owner regarding concerns, potential causes, and solutions to the high nitrate-nitrogen concentration in their well.

13.12 Additional sampling may be performed as part of the program.

13.13 An owner may request that their registered domestic well be sampled before their scheduled year. The District will meet this request, and reschedule subsequent well samples, so the well is sampled once every five years after the requested sample date.

13.14 The District will sample unregistered domestic wells or stock wells upon request, but the owner must register the well before the well is sampled.

#### **Rule 14. GENERAL ENFORCEMENT PROVISIONS**

14.1 Investigation and Report

- (a) The District staff may conduct investigations to determine compliance with the District rules and regulations. The District Manager shall review the report. If the District Manager finds that the groundwater user, landowner, or operator is in violation of the rules, the Act and/or other Nebraska law, the investigation report shall be sent to the groundwater user, landowner, or operator, accompanied by a formal notice of intent to issue a cease and desist order. The report and notice of intent to issue a cease and desist order shall be provided to the groundwater user, landowner, and operator by hand delivery, or via certified mail, return receipt requested, and by postage prepaid, and by First Class U.S. Mail. If the groundwater user, landowner, or operator believes the report is in error and no violation has or is occurring, he/she may make a written request for a hearing before the Board of Directors. Any written request for a hearing must be received at the District Office within

seven (7) business days (excluding Saturdays, Sundays, and legal holidays), of receipt of the report and notice of intent to issue a cease and desist order.

## 14.2 Hearings

(a) If the groundwater user, landowner, or operator makes a timely, written request for a hearing, the URNRD Board shall schedule such hearing at its Office. Such hearing shall be held no sooner than ten (10) days and not more than forty-five (45) days after receipt of the notice of intent.

14.3 Notice of the hearing shall be provided to the groundwater user, landowner, and operator and any other necessary person. Such notice shall be provided via certified mail, return receipt requested, and by postage prepaid First Class U.S. Mail. The notice shall inform the groundwater user, landowner, and operator that: (1) if he or she fails to respond to any notice and/or fails to appear at the scheduled hearing, the Board shall proceed to make a final determination as to the alleged violation of these rules, the Act and/or other Nebraska law, and (2) whether to issue a cease and desist order against the groundwater user, landowner, and operator.

14.4 The URNRD Board shall conduct the hearing to provide due process and receive all relevant information regarding the alleged violation from the District and from the groundwater user, landowner, and operator. The Board shall keep a record of the hearing and shall base its decision on whether to issue a cease and desist order solely on the information received at the hearing. The Board shall render its decision in writing and provide the same to the groundwater user, landowner, and operator via certified mail, return receipt requested, and via postage prepaid First Class, U.S. Mail.

14.5 In the event of a violation of the rules and regulations or a violation of a cease and desist order by a groundwater user, landowner, or operator, the District may hold a separate hearing to determine whether to impose additional penalties. The Board shall provide written notice of the separate hearing to impose additional penalties on the groundwater user, landowner, or operator via certified mail, return receipt requested and by prepaid First Class U.S. Mail. Such notice shall specify the date, time, and location of any such hearing and advise the groundwater user, landowner, or operator that they may be represented by counsel of their choosing. The hearing shall be conducted to provide the appropriate due process and ensure all relevant information from the groundwater user, landowner, or operator is considered before rendering a written decision. Only information received at the hearing shall be considered by the Board to determine whether to impose any penalty. The District shall keep a record of that hearing and provide its written decision to the groundwater user, landowner, or operator via certified mail, return receipt requested and via postage prepaid, First Class U.S. Mail.

## 14.6 Cease and Desist Order; Violation.

(a) The Board may seek all civil penalties provided for by law.

14.7 Compliance With Order.

- (a) When a groundwater user, landowner, or operator achieves compliance with the District's rules, the Board shall lift the cease and desist order or modify it to ensure future compliance. Notwithstanding compliance, the Board may impose penalties.

14.8 Board Authorization to Initiate Court Action

- (a) The Board may initiate appropriate legal actions to enforce any action or order of the District.

14.9 Penalties

- (a) Any person who violates a cease and desist order or who has a violation of the rules of the District, shall be subject to a penalty, including but not limited to the following: (1) a reduction (in whole or in part) in that person's allocation of groundwater; (2) a reduction in the number of certified irrigated acres; and/or (3) a permanent forfeiture (revocation) of certified irrigated acres. Such penalties may be permanent or for a specified period of time. The Board shall consider the seriousness of the violation when determining the nature of the penalty to be imposed.
- (b) The circumstances for additional penalties include, but are not limited to, the following: (1) a knowing or deliberate violation of the rules; (2) repeated violations of these rules; and (3) being in violation of more than one rule at any particular time. Notice and hearing shall be provided to any such person before the District imposes the additional penalties identified in this Rule

14.10 Any person subject to these rules has full knowledge of their contents, requirements, and prohibitions. No person shall be able to use ignorance of the provisions of these rules as a defense in any enforcement action or penalty proceeding.

**Rule 15. CHEMIGATION**

15.1 These rules and regulations are adopted pursuant to the authority granted in Neb. Rev. Stat. §§46-701-754, the Nebraska Groundwater Management and Protection Act, and Neb. Rev. Stat. §§46-1101-1148, the Nebraska Chemigation Act and Title 195 Nebraska Administrative Code (N.A.C.). These rules and regulations are intended to apply District-wide.

15.2 Chemigation Application

- (a) No person shall chemigate or authorize the application of chemicals to land or crops through the use of chemigation, unless such person obtains authorization from the District, via permit, authorizing such chemigation. No permit is required to pump or divert water to or through an open discharge system. Each injection location must be

permitted on an annual basis, using forms provided by the District. Each permit expires on June 1 of each year, and the permitholder is solely responsible for renewal.

15.3 An application for a chemigation permit shall be considered received by the District on the date it is either hand delivered or received by mail, so long as the application is properly completed as per Nebraska Administrative Code Title 195, signed by the permitholder, and the permitholder has paid the requisite fee (see Section 15.17: Chemigation Permit Fee Schedule). Any incomplete, unsigned, or unpaid applications will be returned to the applicant.

#### 15.4 Certification

(a) Pursuant to Title 195, Chapter 13, Nebraska Department of Water Energy and Environment, all chemigation applicators must undergo and maintain certification. Training programs shall be offered through the University of Nebraska Cooperative Extension Service. The director shall issue a certificate acknowledging the competency, determined through the use of a written examination prepared and administered by the department. Each applicator's certificate shall be valid for a period of four years, and shall expire on January 1 of the fourth year after the date of issuance.

#### 15.5 Original Permit Process

(a) The District shall review each completed permit application, conduct an inspection, and approve or deny the application within 45 days after the application is filed.

15.6 No chemigation permit, except a Special permit, shall be issued or renewed by the district, if any of the following conditions occur:

- (a) The applicant has failed to provide the required information, as specified in Title 195, Chapter 2, 002, Nebraska Department of Water Energy and Environment on the application form;
- (b) The irrigation distribution system does not comply with the equipment standards set forth in Title 195, Chapters 9 and 10, Nebraska Department of Water Energy and Environment;
- (c) The applicator has not been certified as a chemigation applicator by the Department; or
- (d) The applicant has failed to remit the appropriate fee

15.7 Changes in application information shall be provided to the District within 10 days.

#### 15.8 Renewal Process

- (a) All permits must be renewed annually. If a renewal form has not been completed and filed with the requisite fee (see Section 15.17: Chemigation Permit Fee Schedule), the permit shall not be renewed without filing an original application. Since permits expire on June 1, all renewable applications must be on file with the District by May 31. Each application for renewal is subject to inspection of equipment and site to determine compliance with the Chemigation Act and these rules and regulations. If an inspection reveals noncompliance, renewal shall be refused, suspended, or revoked until compliance is achieved, as determined by the District. Under no circumstances may a permit be transferred.

#### 15.9 Special Permits

- (a) If the chemigation system does not need all the safety equipment, as determined by District inspection, the District shall forward such information to the Department for review. If the Department agrees with the District's inspection, the Department shall grant the District authority to issue a special permit. Before issuing any special permit, the District shall obtain information for special permits specified by N.A.C. Title 195, Ch. 5.

#### 15.10 Emergency Chemigation Permit Approval

- (a) A person may file an application for an emergency permit as established in Title 195, Chapter 6, Nebraska Department of Water Energy and Environment. The District shall have two working days to review the permit before issuing or denying. "Two working days" shall mean Monday through Friday, but does not include Saturday, Sunday, or a federal or state holiday. The day the District receives the permit application is not included in the two working days. On the second working day, the District shall complete its review and either issue or deny the permit. If the District has not denied the permit within two working days, the permit shall be deemed issued.

15.11 Emergency permits shall be valid for a period of forty-five (45) days from the date of issuance.

15.12 Any holder of an emergency permit or an applicator applying chemicals pursuant thereto who violates any of the provisions of the Nebraska Chemigation Act or standards, rules and regulations adopted under it, shall have such permit automatically revoked by the district or the Department, without a hearing and shall be guilty of a Class II misdemeanor

#### 15.13 Permit Revocation

- (a) The District shall immediately suspend any and all permitted chemigation systems if there is an actual or imminent threat of danger to the public or environment due to the operation of the chemigation system.

15.14 The District shall suspend or deny any and all permits if: a permit was obtained fraudulently; a permitholder fails to notify the district of equipment replacement or alteration within seventy-two hours; applicator or permitholder fails to notify the District and Department of actual or suspected spill or accident within 24 hours; or permitholder fails to carry out cleanup measures developed by the Department within the time specified.

15.15 Should a violation of the Nebraska Chemigation Act or rules and regulations promulgated pursuant to the Act occur, the District shall notify the person in violation. The violator has 10 days to remedy the violation or request a hearing before the District's Board of Directors unless the violation is deemed to be an immediate threat by District staff, in which case the District shall give 3 days' notice to the affected person and an opportunity to be heard before issuing a cease and desist order to enforce the Groundwater Management Protection Act or the Chemigation Act.

15.16 If the violation has not been corrected in the 10-day period, the District shall notify the Department of the violation. If after a preliminary investigation, the Department determines there is a violation, then the person's permit shall be revoked until compliance is met. For systems operated by a permitholder, the District may, but shall not be required to, establish a compliance schedule in lieu of the 10-day compliance deadline.

#### 15.17 Chemigation Permit Fee Schedule

(a) As required by Title 195, Chapter 3, Nebraska Department of Water Energy and Environment, the District shall review applications, conduct inspections, and approve or deny permits. No permit may be approved without payment of the requisite permit fee, which shall reflect the cost of administration and inspections.

**15.17.01** An original application fee of \$40.00 for each new permit shall be paid to the District, of which \$5.00 shall be paid to the Department of Water Energy and Environment.

**15.17.02** A special permit application fee of \$ 50.00 shall be paid to the District, of which \$5.00 shall be paid to the Department of Water Energy and Environment.

**15.17.03** The annual renewal fee of \$40.00 shall be paid to the District, of which \$2.00 shall be paid to the Department of Water Energy and Environment.

**15.17.04** An emergency permit application fee of \$ 200.00 shall be paid to the District, of which \$10.00 shall be paid to the Department of Water Energy and Environment.

#### 15.18 Inspections

(a) District and Department employees shall have reasonable access to inspect all chemigation systems and to otherwise carry out their duties pursuant to the Act; specifically, Neb. Rev.Stat. § 46-1124. The District shall conduct an inspection of each

injection location for which the permit is sought in order to ensure compliance with the equipment standards set forth herein and in Title 195, Chapters 9 and 10, Nebraska Department of Water Energy and Environment.

15.19 The District shall conduct an inspection of replaced or altered equipment and shall approve the continuance of chemigation so long as the inspected equipment is deemed to be in compliance with the Act. The District shall not collect a new fee for an inspection of previously approved injection locations.

15.20 Timing of inspections:

Inspections for original applications shall be conducted within 45 days of filing.

- 1) Inspections for special permits shall be conducted prior to permit renewal.
- 2) Inspections for an emergency permit shall be conducted during the 45 day effective period if no inspection was conducted prior to the permit issuance.
- 3) The District has the right to inspect any location up for renewal to determine compliance. Should an inspection determine noncompliance with the Act, the District shall refuse the application until compliance with the Act is demonstrated.

15.21 Equipment

Irrigation distribution systems with chemigation capabilities shall be equipped with the following devices:

- 1) Check valve
- 2) Vacuum relief valve
- 3) Inspection port
- 4) Low pressure drain
- 5) Chemical injection line check valve
- 6) Simultaneous interlock device

Equipment shall be in compliance with Title 195, Chapters 9 & 10, Nebraska Department of Water Energy and Environment and any rules and regulations promulgated by the District.

- 1) All permit holders shall maintain the above listed equipment in good working condition at all times of chemigation.

15.22 Posting

- (a) All permitholders shall post signs on chemigated fields when using any herbicide or pesticide, or a chemical for which the label requires posting. A sign with the words, “KEEP OUT, CHEMICAL APPLICATION THROUGH IRRIGATION WATER SYSTEM” shall be posted by the permitholder at each point of entry into the treated area, adjoining farmstead, or residential area, along any public road where public exposure may occur, and at the point of chemical inject if such point is outside the treated area. The signs shall conform to District rules and regulations as well as Title 195, Chapter 12, 002.04, Nebraska Department of Water Energy and Environment.

#### 15.23 Enforcement

- (a) The District shall enforce the provisions of Neb. Rev. Stat. §§ 46-601, 46-602.01, the Groundwater Management and Protection Act, the Nebraska Chemigation Act, and all its own orders and rules and regulations adopted pursuant thereto through the issuance of a formal notice of an alleged violation, cease and desist orders issued and enforced against operators or landowners, as determined by the Board of Directors, and/or by bringing an appropriate action in the district court in the county where the violation occurs for the reasons and by the procedures as follows. Absent an immediate threat, the District shall give 3 days’ notice to the affected person and an opportunity to be heard before issuing a cease and desist order to enforce the Groundwater Management Protection Act or the Chemigation Act.

15.24 In the event the District finds an adverse effect caused by an actual or suspected accident related to chemigation, the District may require the permitholder to carry out a cleanup and recovery plan pursuant to Neb. Rev. Stat. §46-1131.

15.25 The District shall make reasonable efforts to obtain voluntary compliance before compelling compliance through the legal system.

#### 15.26 Reporting

- (a) The applicator or permitholder shall report any actual or suspected accident related to the use of chemigation in his or her system to the Department and the District within twenty-four hours of its discovery. Notification shall be made by telephone to the Department and the District during office hours, from 8:00 a.m. to 5:00 p.m., Monday through Friday. After hours, weekdays, and holidays, reports shall be made to the Nebraska State Patrol. All information known about the accident at the time of discovery shall be included, such as time of occurrence, quantity and type of material, location and any corrective or cleanup actions presently being taken.

15.27 Permitholders shall notify the District and the Department of any actual or suspected accident resulting from the use of chemigation within 24 hours. Failure to do so may result in a civil penalty of not more than \$500 or a guilty verdict of a Class III

misdemeanor. Permitholders shall note the District and Department consider each day a single, separate violation.

15.28 Permitholders who either replace or alter or authorize such replacement or alteration of chemigation equipment previously approved by the District shall notify the District within 72 hours of such replacement or alteration. The District shall conduct an inspection of the replaced or altered equipment.

## **Rule 16. PROGRAM APPLICATIONS TO THE BOARD OF DIRECTORS**

16.1 Applications made to the Board of Directors to participate in discretionary programs, including but not limited to pooling, chemigation, variances of any kind, shall be considered at regularly scheduled meetings of the Board of Directors. Consideration of such applications shall not be made as an adjudicatory or evidentiary hearing. Decisions by the Board of Directors on such applications are not appealable.

## **Rule 17. GENERAL PROVISIONS**

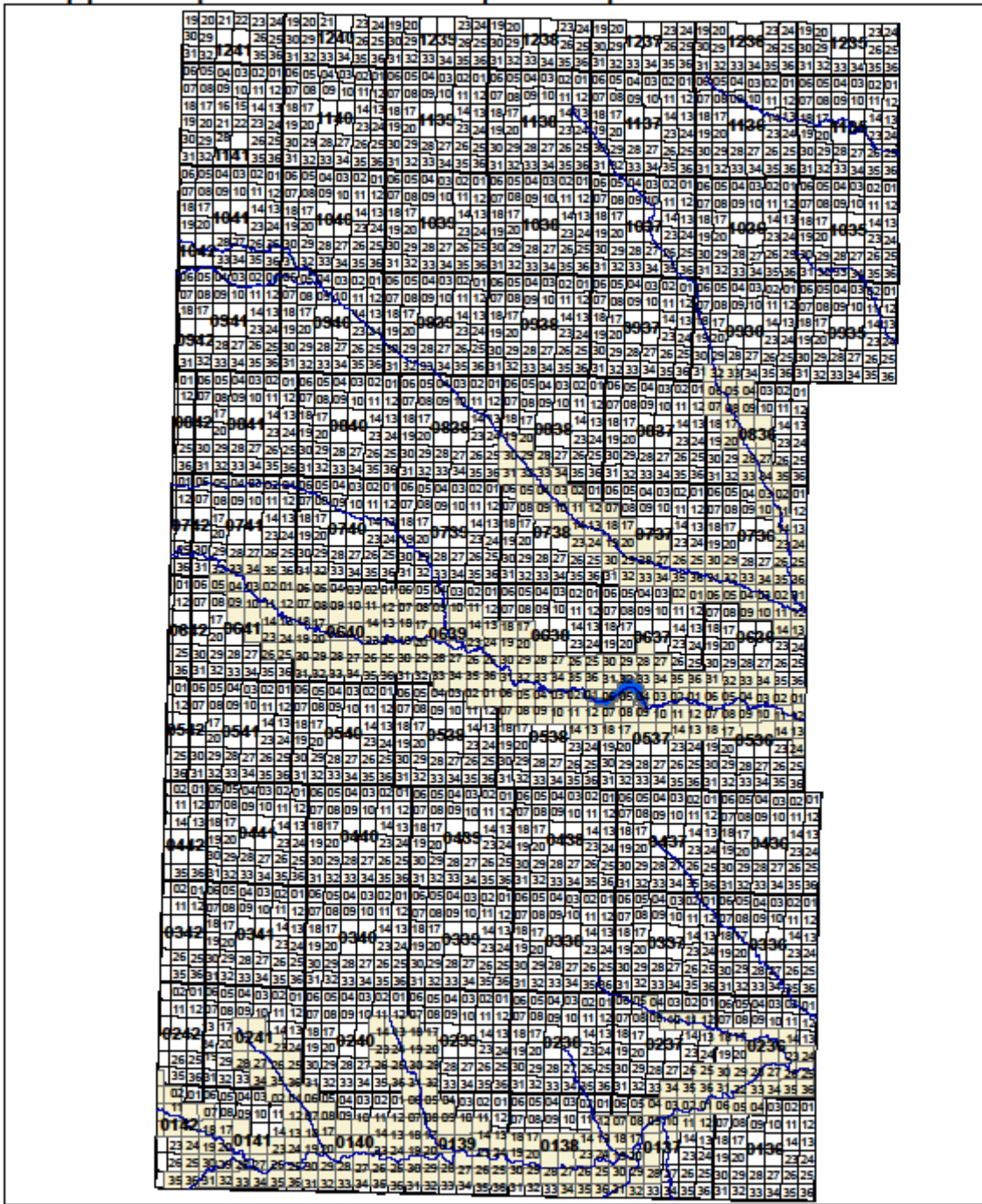
17.1 If any rule or any part of any rule herein shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

17.2 These rules and regulations may be amended at any time upon proper notice and hearing as provided by law.

17.3 These amended rules and regulations shall supersede and prompt all prior orders.

# Appendix

# Upper Republican NRD Rapid Response Area SDF 10-5



## Legend

 Rapid Response 10-5 Area

<b>Minimum Spacing Requirements</b>			
	<b>New Wells</b>	<b>Replacement Wells</b>	
		Well to be replaced is not within 600 ft. of another landowner's domestic or range livestock, 2640 ft. from any public water supply well or 1000 ft. of any other well	Well to be replaced is within 600 ft. of another land owner's domestic or range livestock well, 2640 ft. from any public water supply well or 1000 ft. of any other well
Domestic	Not regulated	Not regulated	Not regulated
Livestock	Not regulated	Not regulated	Not regulated
Commercial Livestock	600 ft. from domestic and range livestock wells, 2640 ft. from any public water supply well & 1000 ft. from all other well(s) owned by others	600 ft. from domestic and range livestock wells, 2640 ft. from any public water supply well & 1000 ft. from all other well(s) owned by others	Replacement well must be drilled within 150 ft. of well to be replaced
Irrigation	600 ft. from domestic and range livestock wells, 2640 ft. from any public water supply well & 1000 ft. from all other well(s) owned by others	600 ft. from domestic and range livestock wells, 2640 ft. from any public water supply well & 1000 ft. from all other well(s) owned by others	Replacement well must be drilled within 150 ft. of well to be replaced
Industrial	600 ft. from domestic and range livestock wells, 2640 ft. from any public water supply well & 1000 ft. from all other well(s) owned by others	600 ft. from domestic and range livestock wells, 2640 ft. from any public water supply well & 1000 ft. from all other well(s) owned by others	Replacement well must be drilled within 150 ft. of well to be replaced
Municipal	600 ft. from domestic and range livestock wells, 2640 ft. from any public water supply well & 1000 ft. from all other well(s) owned by others	600 ft. from domestic and range livestock wells, 2640 ft. from any public water supply well & 1000 ft. from all other well(s) owned by others	Replacement well must be drilled within 150 ft. of well to be replaced

\* No new or replacement well may be drilled closer to an existing well than provided above, unless all owner(s) of any existing well(s) execute a notarized waiver of the spacing protection provided by this rule which shall be filed with the District. In no event shall a well be drilled within 150 feet of any domestic or range livestock well owned by another individual.