

LOWER LOUP NATURAL RESOURCES DISTRICT PUBLIC HEARING

A formal hearing will be held January 26, 2023, at 4:05 p.m. at the Lower Loup Natural Resources District office, 2620 Airport Drive, Ord, Nebraska, regarding proposed changes to the District's Groundwater Management Area Rules and Regulations and the Enforcement of the Nebraska Groundwater Management and Protection Act.

PROPOSED LOWER LOUP GROUNDWATER MANAGEMENT AREA RULES & REGULATIONS

AUTHORITY

The Lower Loup Natural Resources District ("LLNRD" or "District") adopts these Rules and Regulations pursuant to the authority granted in the Nebraska Groundwater Management and Protection Act ("Act"), ~~Chapter 46, Article 7~~ Neb. Rev. Stat. § 46-701 et. seq., and Neb. Rev. Stat. § 2-3201 et. seq.

PURPOSE

These Rules and Regulations are adopted for the following purposes: (1) to protect groundwater quantity; (2) to protect groundwater quality; (3) to prevent or resolve conflicts between groundwater users and surface water appropriators in those areas where groundwater and surface water are hydrologically connected; and (4) to implement the necessary controls to carry out the goals and objectives identified in the Voluntary Integrated Management Plan ("IMP") jointly adopted by the LLNRD and the Nebraska Department of Natural Resources ("DNR").

CHAPTER 1 - DESIGNATION OF BOUNDARIES AND MANAGEMENT AREA

These Rules and Regulations apply within the entire geographic boundary of the LLNRD. The stratigraphic boundary is from the land surface to the base of the underlying sand and gravel layers that contain the water bearing material. The entire District is designated a Groundwater Management Area pursuant to Neb. Rev. Stat. § 46-712. The boundaries of the District are described in Appendix "A."

CHAPTER 2 - DEFINITIONS

- A. **Alleged Violator** shall mean any person against whom a complaint has been filed against in accordance with ~~Rule~~ Chapter 3.
- B. **Banked Acre** shall mean an acre-foot that is (a) recognized by the District; (b) not currently being utilized; and (c) available to offset new District-approved uses.
- C. **Board** shall mean the Board of Directors of the Lower Loup Natural Resources District and/or its employees and agents acting at the direction of the Board of Directors.
- D. **Common Carrier** shall mean any carrier of water including a pipe, canal, ditch, or other means of piping or adjoining water for irrigation purposes.
- E. **Compliance Officer** shall mean an employee, agent, or director of the District, authorized to perform the functions assigned thereto by these rules and regulations.
- F. **Education Program** shall mean informational and educational training sessions designed to acquaint landowners and operators with the best management practices and general information to assist in the operation of their irrigation and cropping system.
- G. **Flow Meter** shall mean a measuring device, approved by the Board of Directors, to measure the quantity of water pumped, withdrawn, or taken from a water well, Common Carrier, and/or surface water source.

- H. **Groundwater** shall mean that water which occurs, moves, seeps, filters, or percolates through under the surface of the land.
- I. **Groundwater Quality Management Area** means all areas within the District designated as such by the District pursuant to Neb. Rev. Stat. §§ 46-712 or 46-718, any area designated as such by the Director of the Department of Environment and Energy pursuant to Neb. Rev. Stat. § 46-725, or any area designated by the Interrelated Water Review Board pursuant to Neb. Rev. Stat. § 46-719.
- J. **Groundwater Quality Management Sub-Area** means a geographical area with the Groundwater Quality Management Area designated by the District as such and for which controls specific to that Groundwater Quality Management Sub-Area have been adopted in accordance with these Rules & Regulations.
- K. **Groundwater Quantity Management Area** means all areas within the District designated as such by the District pursuant to Neb. Rev. Stat. § 46-712 or 46-718.
- L. **Groundwater Quantity Management Sub-Area** means a geographical area with the Groundwater Quantity Management Area designated by the District as such and for which controls specific to that Groundwater Quantity Management Sub-Area have been adopted in accordance with these Rules & Regulations.
- M. **Groundwater User** shall mean a person who at any time extracts, withdraws, or confines groundwater for any use by himself or allows such use by other persons at a rate in excess of fifty (50) gallons per minute. Whenever the landowner and operator are different, the term ‘groundwater user’ shall mean both the owner and operator.
- N. **Illegal Water Well** shall mean (1) any water well operated or constructed without or in violation of a permit required by the Nebraska Groundwater Management and Protection Act; any water well not in compliance with rules and regulations promulgated by the District; any water well not properly registered in accordance with Neb. Rev. Stat. §§ 46-602 to 46-604; or (4) 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.
- O. **Improper Irrigation Runoff** shall mean the occurrence of irrigation runoff water which (1) causes or contributes to the accumulation of water upon or beneath the surface of the lands of any other person(s) to their detriment, damage, or inconvenience; (2) causes or contributes to the deterioration of water quality by depositing sediment and/or associated chemicals in surface water within the area; or (3) which contributes to the flow of groundwater to waste.
- P. **Irrigated Acre** shall mean any acre of land that is certified in accordance with Rule 12.
- Q. **Irrigation Runoff Water** shall mean groundwater used for irrigation purposes which escapes from land owned, leased, or otherwise under the direct supervision and control of a groundwater user. Groundwater which becomes commingled with surface water runoff shall be treated as irrigation runoff.
- R. **Lagoon Water** shall mean water, not considered groundwater or surface water, which is part of a manure waste system that stores effluent from livestock, municipal, commercial, or industrial facilities to be used to provide nutrients and water to crops.
- S. **Landowner** shall mean any person who owns or is in the process of purchasing land within the District.
- T. **New Groundwater Irrigated Acre** shall mean an acre of land that is not certified to be irrigated or not offset and is allowed to be irrigated by the variance process causing a new net depletion to the basin.
- U. **Nitrogen Fertilizer** shall mean a chemical compound in which the percentage of nitrogen is greater than the percentage of any other nutrient in the compound, or when applied, results in

- an average application rate of more than ~~twenty (20)~~ forty (40) pounds of nitrogen per acre over the field to which it is being applied.
- V. **Offset** shall mean that the depletion resulting from a new water well or transfer has been accounted for and has been determined that the same amount of water or less would be depleted from the stream over a 50-year period absent the installation of the same new water well or transfer.
- W. **Operator** shall mean a person with direct control over day-to-day farming operations of the land.
- X. **Person** shall mean a natural person, part partnership, association, corporation, municipality, irrigation district, and any agency or political subdivision of the state.
- Y. **Replacement Well** shall mean a water well which is constructed to provide water for the same purpose as the original water well and is operating in accordance with any applicable permit from the department and any applicable rules and regulations of the natural resources district and, if the purpose is for irrigation, the replacement water well delivers water to the same tract of land served by the original water well and (1) replaces a decommissioned water well within one hundred eighty (180) days after the decommissioning of the original water well; (2) replaces a water well that has not been decommissioned but will not be used after construction of the new water well and the original water well will be decommissioned within one hundred eighty (180) days after such construction, except that in the case of a municipal water well, the original municipal water well may use after construction of the new water well but shall be decommissioned within one (1) year after completion of the replacement water well; or (3) the original water well will continue to be used but will be modified and equipped within one hundred eighty (180) days after such construction of the replacement water well to pump fifty (50) gallons per minute or less and will be used only for livestock, monitoring, observation, or any other non-consumptive or de minimis use approved by the applicable natural resources district.
- Z. **Water Well**
1. The term Water Well shall mean: (i) any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for groundwater, monitoring groundwater, utilizing the geothermal properties of the ground, obtaining hydrogeologic information, or extracting water from or injecting fluid as defined in Neb. Rev. Stat. § 81-1502 into the underground water reservoir; or (ii) any excavation made for any purpose if groundwater flows into the excavation under natural pressure and a pump or other device is placed in the excavation for the purpose of withdrawing water from the excavation for irrigation.
 2. The term Water Well shall not include: (i) any excavation made for obtaining or prospecting for oil or natural gas or for inserting media to repressure oil or natural gas bearing formations regulated by the Nebraska Oil and Gas Conservation Commission; or (ii) any structure requiring a permit by the Department of Natural Resources used to exercise surface water appropriation.

CHAPTER 3 - ENFORCEMENT AND PENALTIES

RULE 3-1 — ENFORCEMENT

~~A. — Penalties for violating certain provisions of these Rules and Regulations are identified below, listed penalties may be enforced without the need for the LLNRD to issue a cease and desist order. To the extent that specific penalties are not identified below, these Rules and Regulations shall be enforced by the LLNRD through the use of cease and desist orders issued in accordance with the NEB. REV. STAT. § 46-707(h).~~

RULE 3-1 Complaints The following persons

B. ~~Any person may file a complaint with the LLNRD against a groundwater user or other person within the District for non-compliance with ground water user, landowner, or operator alleging that they are in violation of these rules; the Act or these Rules; and Regulations:~~

1. ~~Any person who owns land, leases land, or resides within and/or other Nebraska law, the District;~~
2. ~~Any person directly affected by the alleged violator;~~
3. ~~District staff;~~
4. ~~The Board by its own motion.~~

C. ~~The complaint should include as much information as known by the filer, including, but not limited to:~~

1. ~~The name of the filer;~~
2. ~~The name of the alleged violator;~~
3. ~~The provision or rule allegedly violated;~~
4. ~~A clear and concise statement of the factual basis for the alleged violation, including any evidence available to the filer to support a finding that the provision or rule was violated.~~

D. ~~Complaints must be submitted to the District in writing on a form provided by the District.~~

A. ~~Upon the receipt of a complaint, the District shall review the complaint for completeness and, if necessary, conduct an investigation for the purpose of determining the extent of the alleged violation and obtaining any additional information that may be reasonably necessary for the Board to determine whether a violation has occurred. If an investigation of which is conducted, an investigation report summarizing the investigation and any evidence gathered shall be attached to the complaint and submitted to the Board with the complaint for consideration within the jurisdiction of the LLNRD.~~

RULE 3-2 If the Inspections

A. ~~Pursuant to Neb. Rev. Stat. § 46-707, LLNRD staff may conduct investigations, document reviews, and field inspections to confirm compliance with these rules; the Act; and/or other Nebraska law.~~

B. ~~LLNRD staff shall notify the ground water user, landowner, or operator, either in person, by postal mail, by electronic communication, or by leaving notice posted at the ground water user's last known address, of any suspected violation(s), of the LLNRD's intent to conduct an inspection, and of the purpose of such inspection.~~

C. ~~LLNRD staff shall be authorized to enter upon the land to investigate complaints and alleged violations, and to conduct field inspections, upon showing proper identification, and after providing the ground water user, landowner, or operator with notice as described above.~~

RULE 3-3 Submission of Inspection Report Alleging Violation and Alleged Violator's Alternatives

E. ~~If the LLNRD Manager finds that the ground water user, landowner, or operator is in violation of the rules, the Act and/or other Nebraska law, the staff report described above shall be sent to the ground water user, landowner, or operator, accompanied by a formal notice of intent to issue a cease and desist order. The staff report and Compliance Officer, upon receipt of the complaint and/or investigation report, determines that there is sufficient cause to open a proceeding against the alleged violator, the District shall notify the alleged violator in writing of its intent to issue a cease and desist order. The notice of intent to issue a cease and desist order shall include the general grounds for the action, the contemplated action, and a date and time for a hearing no~~

~~less than ten days after the date of issuance where the alleged violator may have a reasonable opportunity to be heard be provided to the ground water user, landowner, or operator by hand delivery, or via certified mail, return receipt requested, and by postage prepaid, First Class U.S. Mail. If the ground water 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 LLNRD Board A copy of the complaint and/or investigation of Directors. Any written request for a hearing must be received at the LLNRD Office within seven (7) business days (excluding Saturdays, Sundays, and legal holidays), of receipt of the staff report shall be attached thereto.~~

~~A. The hearing shall afford both the District and the alleged violator the opportunity to present testimony and evidence regarding the allegations contained within the complaint, investigation report, or and notice of intent to issue a cease and desist order.~~

~~F. If an alleged violator or an agent thereof is unable to appear at the date and time of the hearing provided in the notice of intent to issue a cease and desist order for reasons that are satisfactory to the General Manager and/or the Chairman of the Board, and with notice, the General Manager and/or the Chairman of the Board may issue a notice of hearing in writing stating a new date and time where the alleged violator may have a reasonable opportunity to be heard before the Board.~~

RULE 3-4 Hearings

~~A. If the ground water user, landowner, or operator makes a timely, written request for a hearing, the LLNRD 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.~~

~~B. Notice of the hearing shall be provided to the ground water user, landowner, or 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 ground water user, landowner, or operator that, 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 as to whether to issue a cease and desist order has provided notice of a properly scheduled formal hearing and the alleged violator has failed against the ground water user, landowner, or operator.~~

~~C. The LLNRD Board shall conduct the hearing to appear or respond, the Board may provide due process and receive all relevant information regarding the alleged violation from the LLNRD and from the ground water user, landowner, or operator. The LLNRD 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 LLNRD Board shall render its decision in writing and provide the same to the ground water user, landowner, or operator via certified mail, return receipt requested, and via postage prepaid First Class, U.S. Mail.~~

- ~~1. Review the complaint and/or the inspection report, as well as any other pertinent information; and~~
- ~~2. Issue a cease and desist order or other order, if appropriate.~~

~~G. Pursuant to NEB. REV. STAT. §§ 46-707(h) and 46-746(1), the Board may issue cease and desist orders to enforce any of the provisions of the Act, orders or permits issued pursuant to the Act, or the District's Rules and Regulations, to initiate lawsuits to enforce the provisions of orders issued pursuant to the Act, and to restrain the construction of illegal water wells or the withdrawal or use of water from illegal water wells.~~

~~D. It is presumed that any person subject to In the event of multiple or repeated violations or a violation of the cease and desist order by the same ground water user, landowner, or operator, the LLNRD may hold a separate hearing to determine whether to impose additional penalties. The~~

LLNRD Board shall provide written notice of the separate hearing to impose additional penalties on the ground water 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 ground water 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 ground water user, landowner, or operator is considered before rendering a written decision. Only information received at the hearing shall be considered by the LLNRD Board to determine whether to impose any penalty. The LLNRD shall keep a record of that hearing and provide its written decision to the ground water user, landowner, or operator via certified mail, return receipt requested and via postage prepaid, First Class U.S. Mail.

RULE 3-5 Cease and Desist Order; Violation; Penalties

A. As provided by the Act, any violation of a cease and desist order issued by the LLNRD pursuant to the Act shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) for each day an intentional violation occurs, per Neb. Rev. Stat. § 46-745(1).

RULE 3-6 Compliance these Rules and Regulations

A. When a ground water user, landowner, or operator achieves compliance, the LLNRD shall lift the cease and desist order or modify it to ensure future compliance. Notwithstanding compliance, the LLNRD may impose penalties including, but not limited to, revoking the certification for the irrigated parcel(s) that is the subject of the violation.

RULE 3-7 Board Authorization to Initiate Court Action

A. The Board may initiate appropriate legal actions to enforce any action or order of the LLNRD.

RULE 3-8 Enforcement and Penalties

A. Any person who violates any controls or rules adopted by the LLNRD shall be subject to the issuance of a cease and desist order, additional penalties, and such other legal action as is necessary to bring about compliance.

B. Any person who violates a cease and desist order or who has repeated or multiple violations of the rules of the LLNRD, 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 ground water; (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 LLNRD Board shall consider the seriousness of the violation when determining the nature of the penalty to be imposed.

C. The circumstances for additional penalties include, but are not limited to, the following: (1) a knowing or deliberate violation of the rules; (2) a second violation of any particular rules; (3) repeated violations of these rules; and (3) being in violation of more than one rule at any particular time. The Board may also pursue such forfeiture of certification and/or allocation if a person has been warned in writing on more than one occasion that they are in violation of these rules. Notice and hearing shall be provided to any such person before the LLNRD imposes the additional penalties identified in this Paragraph.

D. 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 and Regulations rules as a defense in any enforcement action or penalty proceeding

CHAPTER 4 - LAND ACCESS

RULE 4-1 Entry Upon Land

A. The LLNRD or authorized designee shall have the power and authority to enter upon the land, after notification to the landowner or operator, for any and all reasons relative to the administration of the provisions of these rules and regulations and the Act. This entry shall not be considered trespass.

B. Notice for entry upon land may be accomplished by ~~rule~~, oral communication, regular mail, certified mail, or personal service.

RULE 4-2 Notice

A. The LLNRD hereby notifies all landowners and operators of its intent to enter onto property for the following purposes relating to flow meter devices or other similar devices used to measure the quantity of groundwater pumped for irrigation, municipal, commercial, and industrial purposes (“measuring devices”):

1. Verify the installation of measuring devices;
2. Read or verify readings of all installed measuring devices;
3. Any other inspection or installation required to ensure proper use and maintenance of measuring devices.

B. The LLNRD hereby notifies all landowners and operators of its intent to enter onto the property for the purpose of conducting static water well measurements and for the purpose of any inspections, measurements, evaluations, or sample collection undertaken pursuant to state law.

CHAPTER 5 - ~~RULE 5~~ IRRIGATION RUNOFF WATER

RULE 5-1

Water capable of being captured and utilized by another person in a manner which will prevent waste of such water, deterioration of surface water quality, and accumulation of water upon the land of any other person without his consent, may be excluded from the definition of improper irrigation runoff if the groundwater user responsible for the runoff submits a copy of a proposed agreement on a form provided by the District providing for the capture and utilization of such water and executed by all affected parties. The District shall review the proposed agreement and issue ~~its approval~~ a permit authorizing such use if it is determined that the groundwater user’s irrigation runoff water is under adequate control. The agreement may be terminated at any time by either party or ~~by~~ the District may revoke a permit whenever it determines that such agreement no longer prevents or controls improper irrigation runoff. If the District ~~terminates~~ revokes the agreement permit, written notice shall be provided to both parties by certified mail within ten (10) business days. If one of the parties to the agreement causes the termination, written notice shall be provided to the other party and to the District by certified mail within ten (10) business days.

CHAPTER 6 - ~~Rule 6~~ WATER WELL CONSTRUCTION PERMITS

RULE 6-1 Wells

A. Any person intending to construct a water well or replacement well within the District shall, before commencing construction, apply for a Permit to Construct a Water Well on forms provided by the District. A groundwater user seeking to obtain a Permit to Construct a Water Well shall pay a nonrefundable fee, in accordance with the Nebraska Groundwater Management and Protection Act, to the District upon filing the permit application.

B. Any person intending to undertake the following well construction activities shall not be required to apply for a Permit to Construct a Water Well:

1. No permit shall be required for test holes or dewatering wells with an intended use of ninety (90) days or less; and
2. No permit shall be required for water wells designed and constructed to pump fifty (50) gallons per minute or less.

C. If subsequent modifications to the well-construction activities exempt under Rule 6-1.B would cause the exemption to be lost, the person shall be required to apply for a Permit to Construct a Water Well. Such permit shall be obtained prior to commencement of the modifications.

D. Any person who fails to obtain a permit as required by this rule shall immediately cease using the well and apply for a late Permit to Construct a Water Well on forms provided by the District.

E. The District shall review permit applications and either issue or deny permits within thirty (30) days after the application is filed. If the District finds that the application for a permit is incomplete or needs corrections, it shall return the application to the applicant for any necessary corrections. Corrections must be made within sixty (60) days or the application will be cancelled.

F. A permit required by this rule, whether late or otherwise, shall be granted unless the District finds:

1. The location or operation of the proposed water well in question or other work would conflict with any regulations or controls adopted by the District;
2. The proposed use would not be a beneficial use of water for domestic, agricultural, manufacturing, or industrial purposes;
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.
4. The location and operation of the proposed water well will not result in conflicts with surface water users or groundwater users.

G. Prior to submitting an application for a Permit to Construct a Water Well, any person intending to construct a water well or replacement well in which the annual withdraws from it exceeds five hundred (500) acre-feet or upgrade an existing user of five hundred (500) acre-feet to an additional two hundred and fifty (250) acre-feet annually, must provide the following information to the District indicating an acceptable impact to groundwater and surface water uses:

1. A hydrologic evaluation, conducted at the permittee's expense;
2. A detailed description of the potential impact of the withdrawal to water quantity;
3. A detailed description of the potential impact of the withdrawal to water quality;
4. A detailed description of the potential impact of the withdrawal on current groundwater and surface water users;
5. A detailed description of the potential twenty (20) year impact on the groundwater and surface water for potential future uses.

H. A Permit to Construct a Water Well issued by the District shall specify all regulations and controls relevant to the construction or utilization of the water well or replacement well. All new wells requiring a permit shall have a flow meter, approved by the District, installed and operational prior to operation of the well.

I. The District shall transmit a copy of the Permit to Construct a Water Well to the Nebraska Department of Natural Resources.

J. A Permit to Construct a Water Well shall not vest in any person the right to violate any District rule, regulation, or control, whether in effect on the date of issuance of the permit or adopted thereafter. Obtaining a permit pursuant to this rule shall not relieve any person from the requirement to register a well pursuant to Neb. Rev. Stat. §§ 46-601 through 46-613.02.

K. Upon issuance of a Permit to Construct a Water Well, the applicant shall commence construction of the water well or replacement well as soon as possible and no later than one (1) year after the date of issuance. If the applicant fails to complete construction of the water well or

replacement well in accordance with the terms and conditions of the Permit to Construct a Water Well, the District may cancel the permit.

L. Any new water well or replacement well that is constructed after May 9, 2016, may be subject to additional restrictions as the Board of Directors deems reasonable and necessary in light of hydrologic conditions within the District

CHAPTER 7 - RULE 7-GROUNDWATER QUALITY
MANAGEMENT
SUB-AREAS; DESIGNATION; CONTROLS

RULE 7-1 Water Quality

A. The Nebraska Legislature declared the various purposes of the natural resources districts to include pollution control. See Neb. Rev. Stat. § 2-3229(7). The Board of Directors adopted water quality and pollution control as one of its goals in the District's Master Plan. The Board of Directors adopted water quality as Priority 1 in the District's Long-Range Implementation Plan.

B. The Groundwater Management Plan provides:

...to maintain the quality of the groundwater in the groundwater reservoir to within maximum contaminant levels for all chemicals and compounds established by the Nebraska Department of ~~Environmental Quality~~ Environment and Energy ("NDEQ NDEE") and the Nebraska Department of Health and Human Services. Also, to establish a public information, education, and management program designed to reduce existing and potential non-point source contamination of the groundwater reservoir.

C. To achieve its water quality and pollution control goals, the District shall be divided into Groundwater Quality Management Sub-Areas which may be modified by the District from time to time. (See Appendix B). The District shall have the authority to draw, re-draw, or modify the geographical boundaries for sub-areas to encompass areas including but not limited to:

1. Sub-Areas in which groundwater quality testing performed by District personnel indicates nitrate contamination levels generally consistent with the Phase I, or Phase II triggers set forth in Rule 7.D;
2. Areas with similar soil and land use conditions;
2. ~~Any other delineation deemed logical by the District and consistent with the goals and objectives of the Groundwater Management and Protection Act or the District's Groundwater Management Plan.~~
3. Counties, sections, townships, or other political subdivisions;
4. Natural geographic boundaries;
5. Any other delineation determined by the District and consistent with the goals and objectives of the Groundwater Management and Protection Act or the District's Groundwater Management Plan.

D. Each sub-area may be subject to water quality controls in ~~three separate~~ two Phases:

1. Phase I areas are set with median nitrate nitrogen levels of 0 to 6.5 mg/l (milligrams per liter).
2. Phase II areas are set with median nitrate nitrogen levels ~~of greater than 6.6 to 8.5~~ 6.5 mg/l over a continuous four (4) year period beginning with the 1994 test results.
3. ~~Phase III areas are set with median nitrate nitrogen levels of over 8.6 mg/l over a continuous four (4) year period beginning with the 1994 test results.~~

E. The following controls shall apply to Phase I sub-areas:

1. Establish information and education programs;

2. Fall and winter (October 1 – March 1) application of nitrogen fertilizer is prohibited on irrigated field for corn, grain sorghum, soybeans, and potatoes. Nitrogen fertilizers can be applied after March 1st of each year;
- F. The following controls shall apply to Phase II sub-areas:
1. Phase I requirements will continue unless modified or negated by Phase II requirements;
 2. Farm operators using nitrogen fertilizers must attend and pass a certification class conducted by the Lower Loup NRD or an adjoining Natural Resources District;
- ~~2. Fall and winter application of nitrogen fertilizer is prohibited on sandy soils being planted to corn, grain sorghum, soybeans and potatoes. Nitrogen fertilizers can be applied on sandy soils after March 1st of each year;~~
- ~~3. Nitrogen fertilizer with a nitrogen inhibitor will be permitted on non-sandy soils after November 1st of each year. The operators will be required to furnish documentation that a labeled nitrogen inhibitor was used at the recommended rate;~~
- ~~B. The following controls shall apply to Phase III sub-areas:~~
3. Require operators who preplant apply nitrogen fertilizer to furnish documentation from a dealer that a labeled nitrogen inhibitor was used at the recommended rate;
 4. Application of nitrogen fertilizer is prohibited on all soils being planted to corn, grain sorghum, soybeans and potatoes until after March 1st of each year. Spring application of nitrogen fertilizer must be in accordance with guidelines set up by the Lower Loup Natural Resources District, as follows:
 - a. Split applications are authorized; either preplant or pre-emergent/post-emergent, when no more than 50% of actual nitrogen is being applied as preplant or pre-emergent;
 - b. If more than 50% is applied as preplant or pre-emergent, the operator is required to furnish dealer documentation that a labeled nitrogen inhibitor was used at the recommended rate;
 - c. In cases where the total application is 80 pounds of actual nitrogen or less, a labeled nitrogen inhibitor is not required;
 - d. No restrictions if nitrogen fertilizer is applied post-emergent.
 5. An Operator must:
 - a. Supply an annual water analysis for nitrogen concentrations for all wells irrigating corn, grain sorghum, soybeans, and potatoes;
 - b. Obtain one composite deep soil nitrate analysis (0-36") for, no greater than, each 40-acres of field of irrigated corn, grain sorghum, soybeans, and potatoes, and submit the results of the analysis prior to February 1st for that crop year following obtainment of the soil sample;
 - c. Obtain one manure analysis for total nitrogen for each manure source applied to irrigated corn, grain sorghum, soybeans, and potatoes;
 - d. Submit, on forms provided by the District, a report of yearly water tests, flow meter reading, water applied, soil tests, crops planted, yield goals, nitrogen applied, and other field information required to be reported prior to January 31st of each year;
 - e. Monitor water application with a flow meter so operators can more effectively manage fertilizer applications. The flow meter shall be

installed and approved by District staff within three years of the management area designation.

- f. If, after reviewing the soil nitrates, water nitrates, organic matter, historical yields, low nitrogen use efficiency, or other related data and information, the District determines a specific tract is a high-impact field, the Operator must develop a nutrient management plan with his/her nutrient dealer. The nutrient management plan shall provide a detailed schedule of nutrient application for such field for the next growing season. The Operator must provide the District with documentation demonstrating compliance with the nutrient management plan no later than December 1 of each year. The nutrient management plan shall identify the retail supplier from whom the Operator obtains the fertilizer. The Operator or its employees or contractors shall not apply nitrates until the nutrient management plan has been approved by the District.

G. Unless otherwise provided, the entire Lower Loup Natural Resources District Groundwater Management Area shall be designated Phase I.

H. Prior to the designation of any sub-area, modification of the boundaries of any existing sub-area, or modification of the controls to which any particular sub-area is subject, the Board of Directors shall hold a public hearing.

I. The boundaries of all sub-areas shall be designated on a map, updated from time to time, in the District office. The map will be available for public inspection during regular office hours and copies will be provided upon request.

CHAPTER 8 - RULE 8-GROUNDWATER QUANTITY MANAGEMENT SUB-AREAS; DESIGNATION; CONTROLS

RULE 8-1

A. The Nebraska Legislature declared the various purposes of the natural resources districts to include development, management, utilization, and conservation of groundwater and surface water. See Neb. Rev. Stat. § 2-3229(6). The Groundwater Management and Protection Act authorizes the District to require water flow meters to be placed on any water wells for the purpose of acquiring water use data. See Neb. Rev. Stat. § 46-707.

B. The Board of Directors adopted development and management of groundwater and surface water for beneficial uses as one of its goals in the District's Master Plan. The Board of Directors has adopted water quantity as a priority in the District's Long-Range Implementation Plan

C. The District's Groundwater Management Plan provides for the requirement of flow meters and reports of usage as an option for control in Groundwater Quantity Management Areas.

D. To achieve its water quantity control goals, the District may be divided into Groundwater Quantity Management Sub-Areas, which may be modified by the District from time to time. (See Appendix C). The District shall have the authority to draw, re-draw, or modify the geographical boundaries for sub-areas to encompass areas including but not limited to:

1. Areas with similar soil and land use conditions;
2. Counties, sections, townships, or other political subdivisions;
3. Natural geographic boundaries;
4. Any other delineation deemed logical by the District and consistent with the goals and objectives of the Groundwater Management and Protection Act or the District's Groundwater Management Plan.
5. Shall achieve goals of the V-IMP.

6. May include areas where well interference may occur during the irrigation season.

E. Each Groundwater Quantity Management Sub-Area may be subject to water quantity controls in separate phases. Controls will be specified by rule or regulation promulgated by the District after a public hearing and opportunity for comment.

F. Within twenty-four (24) months of the District's designation of a Groundwater Quantity Management Sub-Area, operators shall be required to install a flow meter on all water wells within the sub-area which are designed to pump more than fifty (50) gallons per minute. Withdrawal of groundwater from any water well subject to this provision shall be strictly prohibited without a properly installed and functioning flow meter.

CHAPTER 9 - RULE 9-FLOW METERS

RULE 9-1

A. For a water well, common carrier, and/or surface water source with a discharge pipe of less than or equal to 4-inch outside diameter, an alternative measuring device or method may be used with District approval.

B. All District approved flow meters must meet the minimum requirements of plus or minus two percent (2%) of the actual water flow; and when maintenance is required, the flow meter shall be calibrated to the same standard.

C. Flow meter installation shall be subject to the following requirements:

1. The installation of the flow meter shall be done to meet manufacturer's specifications and shall be constructed so all water pumped by the water well, common carrier, and/or surface water source will pass through the flow meter to the irrigation system;
2. The District may, at the time of its own choosing, verify the location, readings, and proper installation of flow meters;
3. The District may seal flow meters to prevent tampering. The District may consider whether or not to seal a flow meter when doing so may cause unnecessary inconvenience for the user or the District;
4. The landowner shall notify the District prior to changing the location of a flow meter;
5. It shall be the responsibility of the District to provide for service and maintenance of the flow meter according to manufacturer standards. The owner of the flow meter will be required to pay for the expense of maintaining the flow meter.

D. It shall be a violation of these Rules and Regulations for any person to damage, alter, adjust, or otherwise tamper with any flow meter required under these Rules and Regulations.

E. Flow meters may be periodically inspected by District staff or their agent for proper installation, function, and operation. The District shall report the results of the inspection, including any corrections required for proper installation or operation of the flow meter to the operator. Failure to repair or otherwise correct any deficiency identified by the District as a result of inspection of a flow meter within thirty (30) days shall constitute a violation of these Rules and Regulations.

F. Operators shall notify the District in writing within five (5) business days following the discovery of a malfunctioning or otherwise improperly operating flow meter.

G. Operators shall provide the District a written copy of a certification from any person who repairs and/or calibrates any flow meter installed pursuant to these Rules and Regulations. Such certification must indicate the repaired or calibrated flow meter meets the manufacturer's original specifications.

CHAPTER 10 - ~~RULE 10~~ VARIANCES

RULE 10-1

A. The Board of Directors may grant variances from the strict application of these Rules and Regulations upon a showing of good cause.

B. Any person may apply for a variance from the Rules and Regulations by filing an application with the Variance Committee on forms provided by the District, along with a non-refundable fee of \$300.00 due at the time the application is submitted.

C. Within ten (10) days of receipt of an application, the General Manager shall provide the applicant(s) written notice of the date and time for a hearing before the Variance Committee. The Variance Committee shall hear the variance request at two Variance Committee meetings. The first meeting is to hear the information provided by the applicant, the second is to hear additional information and to make a recommendation to the Board of Directors at the next Board meeting. Unless otherwise approved by the Variance Committee, the applicant(s) or his or her representative shall be present at the hearings. Upon prior notification to, and approval by, the Variance Committee, written testimony may be submitted in lieu of the applicant(s) presence.

D. The Variance Committee shall provide a report to the Board of Directors at the next Board meeting concerning the variance applications for which a hearing had been held under Rule 10.C. The Board of Directors shall review the report of the Variance Committee and place the matter on the agenda for a vote at the next Board meeting. The variance request will be voted on at the next regular Board meeting.

E. The Board, at its discretion, may designate conditions under which specific requests for a variance may be approved by methods other than the Variance Committee process. A variance granted under these conditions shall be referred to as an "Expedited Variance."

1. An expedited variance shall be applied for using forms provided by the District. An expedited variance may be granted by the General Manager, or his designated representative, for the purpose of approving an expedited variance for:
 - a. Alternative methods used for public education and/or demonstration projects.
 - b. A water well that is used to supplement an irrigation well or lagoon water, that irrigates land already irrigated with groundwater or lagoon water, provided that the irrigated acres do not exceed the acres currently irrigated.
 - c. Upon written agreement that the acres irrigated will not exceed the acres irrigated before January 1, 2006;
 - d. If the acres are to be irrigated with lagoon water, upon written agreement that the acres irrigated will not exceed the acres certified;
 - e. New wells that irrigate land currently irrigated with surface water on the condition that the landowner provides the following:
 - i. Written agreement from the landowner that the well will only be used when the surface water supply has been exhausted and is no longer available to the operator at the normal rotation or scheduled time;
 - ii. Written agreement that the landowner will maintain the surface water right;
 - iii. Written agreement that the irrigated acres will not exceed the acres currently irrigated.

- f. Land previously irrigated but currently enrolled in a federal, state, or local government conservation program may receive an expedited variance from the raised seal original record of irrigated acres from the County Assessor as long as:
 - i. Acres were irrigated just before being enrolled in a program;
 - ii. Acres are not assessed as irrigated within that county;
 - iii. Acres are certified through the irrigated acres certification process following the conservation program contract termination.

RULE 10-2

As a condition of granting a variance for the use of water, the District may require that a flow meter be installed that has been approved by the District.

CHAPTER 11 - ~~RULE 11~~ NEW CERTIFIED IRRIGATED ACRES DEVELOPMENT

RULE 11-1

A. New groundwater irrigated acres development will be based on the ranking method described in these rules and regulations. Each year, the Board shall set the number of available new irrigated acres that shall be allowed to be certified and irrigated within the hydrologically connected area designated within the 10% in 50-year line. The process that allows the development of new groundwater irrigated acres shall be as follows:

1. The application period to apply for the new groundwater irrigated acres shall be from September 1st to September 20th;
2. The applicants will be notified of the status of their request by December 1st of the application year;
3. The application shall be made on forms provided by the District;
4. The application shall include an aerial photo delineating the new irrigated acres being sought;
5. The application shall be accompanied with a non-refundable filing fee of five hundred dollars (\$500.00);
6. The application shall be signed by the landowner.
7. An incomplete application may be declined.

B. The applications shall be ranked based on criteria set by the Board of Directors. The criteria will be set to allow development of irrigated acres based on the best use of the water resource. Items to be considered may be, but are not limited to:

1. Number of Acres Applied For
- ~~1. Variances that include transfers of irrigated acres or water use transfers will require a title search and approval from lienholders of the property from which the acres are being transferred~~
2. Groundwater/Surface Water Status
3. Irrigation Concentration
4. Soil Classification
5. Stream Depletion Factors

C. The new irrigated acres shall be certified with the District prior to July 1st of the following year; new irrigated acres not certified by July 1st of the following year shall be revoked.

D. New irrigated acres shall not be allowed within a Nebraska Department of ~~Environmental Quality~~ Environment and Energy designated wellhead protection area.

E. Lagoon water may be applied through an irrigation system to acres not certified to groundwater or surface water if:

1. There is a significant weather rain event that puts the lagoon at a point of water elevation that jeopardizes the integrity of the structure or puts it to a must-pump status according to their Nutrient Management Plan filed with the Nebraska Department of ~~Environmental Quality~~ Environment and Energy;
2. The total application of lagoon water is less than 3 acre-inches per acre per year;
3. A map indicating the number of acres and location of those acres is on file with the District;
4. Proper management of the lagoon has been followed according to the Nutrient Management Plan filed with the Nebraska Department of ~~Environmental Quality~~ Environment and Energy;
5. The District has been notified prior to pumping and agrees that the requirements of these rules have been met.

F. Any new irrigated acres developed after May 9, 2016, may be subject to additional restrictions as the Board of Directors deems reasonable and necessary in light of hydrologic conditions within the District.

CHAPTER 12 - ~~RULE 12~~ CERTIFICATION OF IRRIGATED ACRES

RULE 12-1

A. Certification of irrigated acres ~~is~~ was required by January 1, 2008, by each landowner or his or her representative that owns irrigated land within the Lower Loup NRD. The certification records provided by the landowner shall include completed District certification form, raised seal original record of irrigated acres from County Assessor, and FSA aerial photo delineating irrigated acres. The County Assessor's records will be used as the final base for irrigated acres certification. In cases that the acres being certified are not accepted by the General Manager or his or her designated representative, the landowner or his or her representative may request to present his or her information to the Variance Committee for their recommendation to the Board.

B. Any or all of the following sources of information will be used in the variance process to resolve a dispute:

1. U.S.D.A. Farm Service Agency records
2. Aerial photographs
3. Crop insurance records
4. Personal documentation
5. Other requested information

C. The Board may take action to approve, modify and approve, or reject the certification provided by the landowner and his or her representative.

D. Irrigated acres to be certified must:

1. Be capable of actually being supplied with groundwater or surface water through irrigation works, mechanisms or facilities existing at the time of certification if certified prior to January 1, 2008;
2. Had been irrigated at least 2 out of 10 years prior to January 1, 2008. The proof of irrigation shall be the responsibility of the landowner;
3. Land previously irrigated but currently enrolled in a federal, state, or local government conservation program;

4. Be irrigated by lagoon water that had been irrigated at least 2 out of 10 years prior to October 1, 2012 or had previously been certified prior to October 1, 2012;
 5. Granted by Rule 8 Variances;
 6. Be irrigated by surface water in accordance with Nebraska Department of Natural Resources Rules and Regulations.
- E. Acres irrigated by surface water that are not certified with the District are not eligible for District programs.
- F. No acres shall be certified for an illegal water well.
- G. The information on the forms needs to be corrected and kept current by the landowner or his or her representative.

CHAPTER 13 - ~~RULE 13~~ CLOSURE IN THE ISSUANCE OF PERMITS AND IN THE EXPANSION OF IRRIGATED ACRES
RULE 13-1

- A. There is a closure in the issuance of permits to construct new wells and, effective January 1, 2008, a closure to the expansion of irrigated acres within the Lower Loup NRD. This closure shall remain in effect unless rescinded by the Board of Directors.
- B. Wells not subject to these rules are:
1. Test holes;
 2. Dewatering wells with an intended use of less than ninety (90) days.
 3. Water wells constructed to pump fifty gallons per minute (50 gpm) or less, provided that if two or more water wells have individual pumping capacities of 50 gpm or less but a combined capacity of more than 50 gpm, and if those wells are to be clustered or joined for a single purpose or if the water there from is to be commingled or combined for a single purpose, those wells shall be considered as one well and shall be subject to Rule 6;
 4. Water wells to be used as replacement wells;
 5. Wells with permits approved before February 23, 2006, may be constructed if the construction of the well is completed before the expiration date of the permit;
 6. The construction of a well for monitoring groundwater or an observation well for obtaining water levels or hydrologic information. A monitoring/observation well shall not have a permanent pump installed;
 7. The construction of wells for the purpose of groundwater contamination treatment. The application shall include a copy of an approved site plan;
 8. Water wells that are intended to supply water for municipal, industrial, or commercial use.
- C. Except as otherwise provided, only irrigated land which has been certified to groundwater and/or lagoon water may:
1. Be irrigated with groundwater on or after January 1, 2008;
 2. Be irrigated with lagoon water on or after October 1, 2012;
 3. Be eligible for District programs.

CHAPTER 14 - ~~RULE 14~~ MUNICIPAL USE AND ACCOUNTING
RULE 14-1

- A. The District, pursuant to ~~NEB. REV. STAT~~ Neb. Rev. Stat. § 46-740, adopts the following rules regarding municipal use and accounting.

B. The District will calculate a baseline of municipal use for each municipality based on historic consumptive use data for an appropriate interval. Consumptive use will be determined from groundwater pumping volumes and, where applicable, wastewater discharge volumes, and converted to a per capita volume. The baseline per capita volume, plus the annual population growth estimated by the Nebraska Department of Economic Development and/or U.S. Census Bureau will be used to determine annual increases and decreases in consumptive uses. These changes in consumptive use will be tracked annually for each municipality through a reporting system administered by the District.

C. Once each five (5) years, the District will re-calculate the per capita consumptive use based upon similar, but updated data described in subsection (B).

D. Each year the municipality shall be responsible for reporting to the District any groundwater use that exceeds the amount authorized by a permit that was issued pursuant to the Municipal and Rural Domestic Groundwater Transfers Permit Act and any new or expanded single commercial/industrial consumptive use.

E. Any permanent reduction in consumptive use of water associated with municipal growth including governmental, industrial, and commercial growth (e.g., by taking irrigated acres out of production), between July 14, 2006, and January 1, 2026, shall accrue to the District's benefit to be used in whole or in part to offset increased municipal consumptive use within the District. Acres taken out of production must be decertified and shall accrue to the District's benefit.

CHAPTER 15 - ~~RULE 15~~ COMMERCIAL OR INDUSTRIAL USE AND ACCOUNTING

RULE 15-1

A. The District will calculate baseline of commercial and industrial use for each commercial or industrial water user in the District based on historic consumptive use data for an appropriate interval. Consumptive use will be determined from groundwater pumping volumes and, where applicable, wastewater discharge volumes. The baseline will be used to determine changes in consumptive use annually.

B. Changes in consumptive use will be tracked for each commercial or industrial user annually through a reporting system administered by the District.

C. Any permanent reduction in consumptive use of water associated with a new commercial or industrial use of less than twenty-five million gallons (e.g., by taking irrigated acres out of production), between July 14, 2006, and January 1, 2026, shall accrue to the District's benefit.

CHAPTER 16 - ~~RULE 16~~ TRANSFER OF GROUNDWATER

RULE 16-1

A. For agriculture purposes, any person who intends to withdraw groundwater and transfer that groundwater off the overlying land which he or she owns or controls or otherwise change the location of use of groundwater shall, before making such transfer, apply for a transfer on forms provided by the District.

B. The District shall approve the withdrawal and transport of groundwater 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 Groundwater Transfers Permit Act.

C. Transfers for which permits or approval for transfer have been obtained pursuant to the Industrial Groundwater Regulatory Act are not required to apply for a transfer from the District.

D. All applications to transfer shall require a non-refundable application fee of three hundred dollars (\$300.00).

E. 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.

F. An application for a transfer shall contain, but not be limited to, the following information:

1. The name and address of the well owner(s) and landowner(s);
2. The registration number of the well(s) involved;
3. Explanation of the proposed activities;
4. An aerial photo with the proposed field(s), well(s), pipeline(s), etc. delineated;
5. Include approved copy of irrigated acres certification form(s);
6. Legal description(s) of affected properties;
7. Landowner(s) and/or well owner(s) signature(s).

G. The application for a transfer shall 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 groundwater users or on surface water appropriators;
3. Prevent conflict with any regulations or controls adopted by the District;
4. Ensure the proposed transfer would be a reasonable and beneficial use.
5. Prevent a reduction in the availability of groundwater to the area as a result of diminished recharge to the underlying aquifer.

H. The issuance, by the District, of a transfer shall not vest in any person the right to violate a District rule, regulation, or control in effect on the date of issuance of the transfer or to violate any rule, regulation, or control properly adopted after such date.

~~A. The transfer of irrigated acres may have conditions attached by the District prior to approval by both the landowner and District.~~

I. The issuance, ~~by the District,~~ of a transfer permit shall not vest in any person the right to violate any statute, state agency or other jurisdictional agency's rule, regulation, or control in effect on the date of issuance of the transfer 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.

J. Applications to transfer received prior to March 1st, if approved, shall be effective that year. Applications to transfer received after March 1st, if approved, shall not be effective until the following year.

~~RULE 17 - TRANSFERS~~

RULE 16-2 Transfers out of Groundwater Out of District.

A. Any person desiring to withdraw groundwater from one or more water wells located within the District and transport that groundwater out of the District for use elsewhere in the state shall:

- a. Obtain a Transfer Agreement in accordance with Rule 16;
- b. Obtain approval for the use of such water from the Natural Resources District within which the water will be used.

B. Any person ~~intended~~ intending to transport or contract for the transport of more than 250 acre-feet of groundwater or surface water for use or consumption at a location outside the District shall:

1. Consult with the District prior to transporting any such water outside of the District;

C. Prior to transporting any such water outside of the District, provide the District with a written evaluation:

- i. Studying the potential impact of the transport on water quantity and quality within the District;
 - ii. Studying potential hydrologic and economic impact of the transport on current groundwater and surface water users within the District;
 - iii. Studying the potential twenty (20) year hydrologic impact of the transport on future groundwater and surface water uses;
 - iv. Describing any alternative approaches for meeting the water needs sought to be served by the transport of such water outside of the District and providing justification for selecting the transport of such water outside the District in lieu of any alternative approach;
 - v. Show consistency with the District's and Nebraska Department of Natural Resource's Integrated Management Plan;
 - ~~i. Include any additional information required by the Nebraska Department of Natural Resources.~~
1. Within sixty (60) days, the District shall review the written evaluation provided under Subsection (b) and provide a response indicating:
- i. Whether the written evaluation meets the requirements of Subsection (b);
 - ii. Whether additional analysis is required before transport of any such water outside of the District may commence;
 - iii. Whether additional consultation is required before transport of any such water outside of the District may commence.

RULE 16-3

A. Transfers into the District. Groundwater withdrawn outside the District shall not be transferred for use inside the District unless the Natural Resources District from which the groundwater is withdrawn approves the withdrawal and transfer in advance. Use of the transferred water must be in accordance with these Rules.

RULE 16-4

A. ~~Permanent Transfer.~~ Change in Location of Use And New Well. A permanent ~~transfer~~ change in the location of use may be accomplished by decommissioning the well(s) and discontinuing the certified use and ~~transferring~~ requesting the right District to that authorize such use to another owner. The person at a new location. Any new well so authorized, shall be limited provide irrigation water only to the number of acres associated with the newly certified acres from the well being replaced that have been issued by the District. Any such newly certified acres shall have a proportional hydrologic impact as those that have been discontinued.

RULE 16-5

A. Transfer of Certified Irrigated Acres to a Property. A transfer of certified irrigated acres may be permitted in accordance with the following procedure:

1. The applicant shall submit an application to the Board of Directors on forms provide by the District.
2. The application shall include:
 - a. An aerial photo delineating the proposed location to which the irrigated acres will be transferred;

- b. Criteria that will be set by the Board of Directors to promote minimal soil erosion and promote water savings including, but not limited to: 1) soil classification, 2) slope, 3) hydrologic impacts; and 4) infiltration rates;
 - c. Landowner's signature.
 - 3. Applications that do not contain the information provided in this Rule ~~may will~~ be declined denied.
 - 4. The criteria set forth in the application shall be based on historic data, when available, prior to any land leveling or dirt work.
- B. Field Boundary Change. When an irrigated acre is moved from its original location to another location within a parcel, it shall be subject to the same criteria as a transferred certified acre but shall not be considered a transfer.
- C. Transfers of certified acres within the District shall be restricted to the following:
 - 1. Acre(s) had to have been developed prior to January 1, 2006, and irrigated at least 2 out of 10 years prior to January 1, 2008. The proof of irrigation shall be the responsibility of the landowner.
 - 2. Land that is currently certified with the District as irrigated.
 - 3. The original certified irrigated acres that are being transferred must be converted to a non-irrigated use.
 - 4. Transfers shall be based on stream depletion factors and shall not cause an increase in stream depletion.
 - 5. Staff may defer approval of a transfer application to the Variance Committee.
 - 6. Transfers of irrigated acres or water use transfers will require a title search and approval of lienholders of the property from which the acres are being transferred. Fees associated with these actions will be charged back to the landowner(s).
 - 7. Transfers of irrigated acres or water use ~~transfers~~ changes may be subject to the variance process set forth in Rule 10.
 - 8. ~~Acres~~ Certified acres may only be transferred to or from a property once per year.
 - 9. A transfer of certified acres shall not result in an increase in irrigated acres.
 - 10. A transfer of certified acres shall not be allowed to increase the number of irrigated acres within a designated wellhead protection area.
 - 11. Certified irrigated acres retired by a permanent easement shall not be allowed to be transferred.

CHAPTER 17 - RULE 18 CHEMIGATION

RULE 17-1

- A. The Lower Loup Natural Resources 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 Quality~~ Environment and Energy 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.
- B. Nothing in these rules shall exempt any person from the provisions of Title 195 or the Nebraska Chemigation Act.
- C. Chemigation Permit. 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.
 - 1. Chemigation permit is not required on an open discharge irrigation system.

D. 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. The chemigation permit application shall be accompanied by an application fee, determined by the type of permit application. The fees are as follows:

1. The application fee for a new chemigation permit is one hundred dollars (\$100), with five dollars (\$5) of this amount paid by the District to the ~~NDEQ~~ NDEE.
2. The application fee for a chemigation renewal permit is thirty dollars (\$30), with two dollars (\$2) of this amount paid by the District to the ~~NDEQ~~ NDEE.
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 ~~NDEQ~~ NDEE.
4. The application fee for a special chemigation permit is sixty dollars (\$60), with five dollars (\$5) of this amount paid by the District to the ~~NDEQ~~ NDEE.

E. 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. Emergency chemigation permit applications shall be reviewed and approved or denied within two (2) working days after a completed application is filed.

F. Inspections. 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.

1. All approved chemigation permitholders will have their chemigation system inspected at a minimum of once every three (3) years;
2. The District will make periodic inspections of chemigation systems for which no permit has been issued.
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.
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.
5. The chemigation permitholder, applicator, or their designated system operator is required to be present during inspection of the chemigation system by District staff.
6. The District will investigate complaints concerning chemigation systems for which no permit has been issued.

G. Equipment. Employees of the District will not operate any irrigation or chemigation equipment, nor will District staff open any electrical control box.

1. The chemigation system must be started and shut down during the inspection.
2. The irrigation system shall be started and shut down to the extent the inspector has sufficient water to perform the inspection.
3. District staff may assist in removal of the chemical injection line check valve and the inspection port if requested by the chemigation permitholder or applicator.
4. 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.

Appendix A

Commencing on the Custer-Dawson County line at the SW corner of Sec. 31, T13N, R20W of the 6th PM; thence northerly to the SW corner of Sec. 31, T14N, R20W of the 6th PM; thence westerly to the SW corner of Sec. 34, T14N, R21W of the 6th PM; thence northerly to the SW corner of Sec. 15, T14N, R21W of the 6th PM; thence westerly to the SW corner of Sec. 18, T14N, R21W of the 6th PM; thence northerly to the SW corner of Sec. 31, T15N, R21W of the 6th PM; thence westerly to the SW corner of Sec. 31, T15N, R22W of the 6th PM; thence southerly to the SE corner of Sec. 36, T14N, R23W of the 6th PM; thence westerly to the SW corner of Sec. 31, T14N, R23W of the 6th PM; thence northerly to the SW corner of Sec. 18, T14N, R23W of the 6th PM; thence westerly to the SW corner of Sec. 15, T14N, R24W of the 6th PM; thence northerly to the SW corner of Sec. 34, T15N, R24W of the 6th PM; thence westerly to the west Custer County line at the SW corner of Sec. 31, T15N, R25W of the 6th PM; thence northerly to the NW corner of Custer County at the NW corner of T20N, R25W of the 6th PM; thence easterly along the 5th standard parallel to the SW corner of Sec. 31, T21N, R20W of the 6th PM; thence northerly to the NW corner of Loup County at the NW corner of Sec. 6, T24N, R20W of the 6th PM; thence easterly on the north Loup County line to the SW corner of Rock County at the SW corner of Sec. 33, T25N, R20W of the 6th PM; thence northerly to the NW corner of Sec. 4, T26N, R20W of the 6th PM; thence easterly to the NE corner of Sec. 1, T26N, R19W of the 6th PM; thence southerly to the NE corner of Sec. 1, T25N, R19W of the 6th PM; thence easterly to the Rock-Holt County line at the NE corner of Sec. 1, T25N, R17W of the 6th PM; thence southerly on the Rock-Holt County line to the SE corner of Rock County at the SE corner of Sec. 36, T25N, R17W of the 6th PM; thence easterly on the south Holt County line to the NE corner of T24N, R13W of the 6th PM; thence southerly to the NE corner of T23N, R13W; thence easterly to the east Wheeler County line at the NE corner of T23N, R9W of the 6th PM; thence southerly to the NW corner of Boone County at the NW corner of T22N, R8W of the 6th PM; thence easterly on the Boone-Antelope County line to the NE corner of Sec. 5, T22N, R6W of the 6th PM; thence southerly to the NE corner of Sec. 29, T22N, R6W of the 6th PM; thence easterly to the NE corner of Sec. 25, T22N, R6W of the 6th PM; thence southerly to the NE corner of Sec. 24, T21N, R6W of the 6th PM; thence easterly to the NE corner of Sec. 21, T21N, R5W of the 6th PM; thence southerly to the NE corner of Sec. 21, T20N, R5W of the 6th PM; thence easterly to the Boone-Platte County line at the NE corner of Sec. 24, T20N, R5W of the 6th PM; thence easterly to the NE corner of Sec. 22, T20N, R4W of the 6th PM; thence southerly to the NE corner of Sec. 34, T20N, R4W of the 6th PM; thence easterly to the NE corner of Sec. 31, T20N, R3W of the 6th PM; thence southerly to the NE corner of Sec. 30, T19N, R3W of the 6th PM; thence easterly to the NE corner of Sec. 27, T19N, R3W of the 6th PM; thence southerly to the NE corner of Sec. 10, T18N, R3W of the 6th PM; thence easterly to the NE corner of Sec. 7, T18N, R2W of the 6th PM; thence southerly to the NE corner of Sec. 18, T18N, R2W of the 6th PM; thence easterly to the NE corner of Sec. 17, T18N, R2W of the 6th PM; thence southerly to the NE corner of Sec. 20, T18N, R2W of the 6th PM; thence easterly to the NE corner of Sec. 22, T18N, R2W of the 6th PM; thence southerly to the NE corner of Sec. 27, T18N, R2W of the 6th PM; thence easterly to the NE corner of Sec. 25, T18N, R2W of the 6th PM; thence southerly to the NE corner of Sec. 36, T18N, R2W of the 6th PM; thence easterly to the east Platte County line at the NE corner of Sec. 36, T18N, R1E of the 6th PM; thence southerly on the Platte-Colfax County line to where it intersects the south bank of the Platte River; thence westerly along said south bank to a point where the dividing line between Townships 16 and 17N intersects the same; thence westerly on the 4th standard parallel to the point where the Platte County line intersects the Nance-Merrick County line on the southern boundary of Sec. 31, T17N R3W of the 6th PM; thence southerly on the Nance-Merrick County line to the southern boundary of Sec. 7, T16N, R3W of the 6th PM; thence westerly to the SW corner of Sec. 10, T16N, R5W of the 6th PM;

thence southerly to the SE corner of Sec. 16, T16N, R5W of the 6th PM; thence westerly to the SW corner of Sec. 16, T16N, R5W of the 6th PM; thence southerly to the SE corner of Sec. 20, T16N, R5W of the 6th PM; thence westerly to the SW corner of Sec. 24, T16N, R6W of the 6th PM; thence southerly to the SE corner of Sec. 26, T16N, R6W of the 6th PM; thence westerly to the SW corner of Sec. 26, T16N, R6W of the 6th PM; thence southerly to the SE corner of Sec. 3, T15N, R6W of the 6th PM; thence westerly on the Nance-Merrick County line to the point on the southern boundary of Sec. 6, T15N, R6W of the 6th PM where the east-west Nance-Merrick County line turns north-south; thence southerly on the Nance-Merrick County line to the southern boundary of Sec. 7, T15N, R6W of the 6th PM; then westerly on the Nance-Merrick County line to the point on the southern boundary of Sec. 10, T15N, R7W of the 6th PM where the east-west Nance-Merrick County line turns north-south; thence southerly on the Nance-Merrick County line to the southern boundary of Sec. 15, T15N, R7W of the 6th PM; thence westerly on the Nance-Merrick County line to the point where the county line intersects the eastern boundary of Sec. 13, T15N, R8W of the 6th PM in Merrick County; thence southerly to the SE corner of T15N, R8W of the 6th PM; thence westerly to the SW corner of Sec. 34, T15N, R8W of the 6th PM; thence southerly to the SE corner of Sec. 9, T14N, R8W of the 6th PM; thence westerly to the SW corner of Sec. 7, T14N, R8W of the 6th PM, thence southerly to the SE corner of Sec. 25, T14N, R9W of the 6th PM; thence westerly to the SW corner of Sec. 25, T14N, R9W of the 6th PM; thence southerly to the SE corner of Sec. 35, T14N, R9W of the 6th PM; thence westerly to the SW corner of Sec. 32, T14N, R9W of the 6th PM; thence southerly to the SE corner of Sec. 6, T13N, R9W of the 6th PM; thence westerly to the SW corner of Sec. 2, T13N, R10W of the 6th PM; thence southerly to the SE corner of Sec. 15, T13N, R10W of the 6th PM; thence westerly to the SW corner of Sec. 15, T13N, R10W of the 6th PM; thence southerly to the SE corner of Sec. 28, T13N, R10W of the 6th PM; thence westerly to the SW corner of Sec. 29, T13N, R10W of the 6th PM; thence southerly to the SE corner of Sec. 31, T13N, R10W of the 6th PM; thence westerly along the 3rd standard parallel to the SW corner of Sec. 34, T13N, R12W of the 6th PM, thence southerly to the SE corner of Sec. 5, T12N, R12W of the 6th PM; thence westerly to the SW corner of Sec. 5, T12N, R12W of the 6th PM; thence southerly to the SE corner of Sec. 18, T12N, R12W of the 6th PM; thence westerly to the SW corner of Sec. 18, T12N, R12W of the 6th PM; thence southerly to the SE corner of T12N, R13W of the 6th PM; thence westerly to the SW corner of T12N, R13W of the 6th PM; thence southerly to the SE corner of T11N, R14W of the 6th PM; thence westerly to the SW corner of T11N, R16W of the 6th PM; thence northerly to the NW corner of Sec. 19, T11N, R16W of the 6th PM; thence westerly to the SW corner of Sec. 18, T11N, R17W of the 6th PM; thence northerly to the NW corner of T11N, R17W of the 6th PM; thence westerly to the SW corner of T12N, R18W of the 6th PM; thence northerly to the NW corner of T12N, R18W of the 6th PM; thence westerly to the point of beginning.