

DISTRICTWIDE
GROUND WATER MANAGEMENT AREA
RULES AND REGULATIONS

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**SOUTH PLATTE NATURAL RESOURCES DISTRICT
DISTRICTWIDE GROUND WATER MANAGEMENT AREA
RULES AND REGULATIONS**

1. AUTHORITY

These rules and regulations are adopted pursuant to the authority granted in Neb. Rev. Stat. §§ 46-701 to 46-754, the Nebraska Ground Water Management and Protection Act, (Act).

2. PURPOSE

The purpose of these rules and regulations is to implement the South Platte Natural Resources District's Ground Water Management Plan (Plan). The Act provides authority for the Plan and these rules and regulations. The Goal of the Plan is to facilitate the proper management of ground water for quality, quantity, and integrated management.

3. APPLICABILITY

These rules and regulations apply to all lands within the District, which have been designated as the Districtwide Ground Water Management Area (Management Area). A description of the lands subject to these rules and regulations is set forth in Appendix A and a map showing the location of such lands in Appendix B. The management area and these rules and regulations became effective on November 7, 2002, and applied initially to the 2003 growing season. The controls adopted pursuant to the authority in the Act are set forth in Rule 6 of these rules and regulations.

4. DEFINITIONS

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

4.2 Act - shall mean the Nebraska Ground Water Management and Protection Act, Neb. Rev. Stat. §§ 46-701 to 46-754.

4.3 Agricultural Use - shall mean irrigation and/or aquaculture use.

4.4 Alleged Violator - shall mean the ground water user, landowner, or operator of the land who allegedly has failed to comply with any of these rules and regulations.

4.5 Allocation - as it relates to water use for irrigation purposes, shall mean the allotment of a specified total number of acre-inches of irrigation water per certified irrigated acre for the allocation period as granted by the Board.

4.6 Allocation Period - shall mean any three (3) year period during which an allocation may be used in Allocation Subareas A, B, C and D. Subareas E and F will initially have a four (4) year allocation period beginning in 2009. Beginning in 2013 all allocation subareas in the District will be on the same three (3) year allocation period.

4.7 Allocation Subareas - shall mean the subareas identified in Rule 6.7 and as shown on the map in Appendix C.

4.8 Application for a Large User Permit - shall mean an application on a form supplied by the District for an industrial or commercial user, a public water supplier, a non-transient non-community or transient non-community public water supplier who desires to withdraw and/or consumptively use ground water in amounts in excess of twenty-five (25) million gallons annually.

- 4.9 Application for a Late Permit - shall mean an application for a well construction permit that was not timely filed. Such permit shall be reviewed by the District in accordance with Neb. Rev. Stat. § 46-736.
- 4.10 Application for a Transfer Permit - shall mean an application on a form supplied by the District for the physical transfer of ground water, the change in type of use of ground water, the addition of a type of use of ground water to the well, the transfer of certified acres, or the transfer of an allocation.
- 4.11 Application for a Well Construction Permit - shall mean an application on a written form supplied by the District for the construction of a water well in accordance with Neb. Rev. Stat. §§ 46-735 through 46-738.
- 4.12 Aquaculture - shall mean the agricultural practice of controlled propagation and cultivation of aquatic plants or animals for commercial purposes (Neb. Rev. Stat. § 2-3804.01).
- 4.13 Base Allocation - shall mean the number of acre-inches of irrigation water per year per certified irrigated acre as shown on the attached allocation subarea map (Appendix C), which from time to time may be amended.
- 4.14 Best Management Practices - shall mean the schedules of activities, maintenance procedures, and other management practices utilized for purposes of irrigation efficiency, to conserve or effect a savings of ground water, or to prevent or reduce present and future contamination of ground water. Best management practices relating to contamination of ground water may include, but not be limited to, irrigation scheduling, proper rate and timing of fertilizer application, and other fertilizer and pesticide management programs. In determining the rate of fertilizer application, the District shall consult with the University of Nebraska or a certified crop advisor by the American Society of Agronomy.
- 4.15 Board or Board of Directors - shall mean the Board of Directors of the South Platte Natural Resources District.
- 4.16 Carryforward - shall mean any unused portion of an allocation, which may, in accordance with these rules and regulations, be carried forward to subsequent allocation periods.
- 4.17 Carryforward Cap - shall mean the total amount of carryforward that may be accumulated over multiple allocation periods and used in subsequent allocation periods.
- 4.18 Certified Irrigated Acre - shall mean any acre of land within a certified irrigated tract with a demonstrable or proven history of irrigation, as provided in these rules and regulations.
- 4.19 Certified Irrigated Tract - shall mean a specific area(s) of land that contains certified irrigated acres in connection with a particular water source(s) that are physically connected.
- 4.20 Community Water System - shall mean a public water system that 1) serves at least fifteen (15) service connections used by year-round residents of the area served by the system or 2) regularly serves at least twenty-five (25) year-round residents.
- 4.21 Compliance Officer - shall mean an employee or agent of the District authorized by the District Manager to perform the functions assigned to him or her by these rules and regulations.
- 4.22 Consumptive Use - shall mean the amount of water that is consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use is lawfully made (e.g. that portion of the irrigation water applied to a crop that is lost to the system due to evapotranspiration).
- 4.23 Controls - shall mean any requirement, obligation, duty, or restriction placed upon a ground water user,

landowner or operator, who owns, uses or controls land within the District. Controls are set forth in Rule 6 of these rules and regulations.

4.24 Decommission - when used in relation to a water well, shall mean the act of filling, sealing, and plugging a water well in accordance with the Department of Health and Human Services Regulation and Licensure rules and regulations.

4.25 Department, DNR, or NDNR - shall mean the Nebraska Department of Natural Resources.

4.26 District, SPNRD, or NRD - shall mean South Platte Natural Resources District, which encompasses the area located in Cheyenne, Deuel and Kimball counties in the State of Nebraska.

4.27 Educational Programs - shall mean information and educational training programs designed to educate a landowner and/or operator of land with best management practices in the operation of irrigation and cropping systems.

4.28 Flow Meter - shall mean a device of a type or design approved by the Board, and when properly installed and calibrated, will be operated and maintained in accordance with District specifications, and will measure the total amount of ground water withdrawn from a water well.

4.29 Formal Notice - shall mean written notice provided from the District to an alleged violator of an alleged violation of the Ground Water Management Area Rules and Regulations.

4.30 Good Cause Shown - shall mean a reasonable justification for granting a variance for a consumptive use of water that would otherwise be prohibited by rule or regulation and which the District reasonably and in good faith believes will provide an economic, environmental, social, or public health and safety benefit that is equal to or greater than the benefit resulting from the rule or regulation from which a variance is sought.

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

4.32 Ground Water User - shall mean any person who pumps, extracts, withdraws, or confines ground water for any use, except for domestic or range livestock, by any person regardless of rate of withdrawal. Whenever the landowner and operator are different persons or entities, the term ground water user shall include both the landowner and operator.

4.33 Historic Consumptive Use - shall mean the amount of water that has previously been consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use was lawfully made.

4.34 Irrigated Acre - shall mean any acre of land that is certified as such pursuant to these rules and regulations and that is actually capable of being supplied ground water through irrigation works, mechanisms, or facilities existing at the time the acre is certified.

4.35 Irrigation System - shall mean the necessary appurtenances to a water well or wells to convey irrigation water to a certified irrigated tract or tracts. This includes, but is not limited to, the pump and any combination of set-move, solid-set, traveler, center pivot, or linear move sprinkler system(s), subsurface drip system, and gravity, furrow, and border or flood irrigation utilizing water from a ditch, canal, reuse pit, ground water excavation pit, or pipe.

4.36 Land where Ground Water is Withdrawn and Overlying Land - the term “overlying land” shall have the same meaning as “land where the ground water is withdrawn” and shall mean, for the purposes of Rule 6.8, the

tract of land where the well withdrawing the ground water is or will be located and any other tract of land that 1) is owned or controlled by the same person or persons as the tract of land where such well is or will be located, 2) is not completely separated from such tract of land by land owned by any other person, and 3) is located in the same government surveyed section as such well is located or will be located in or in a government surveyed section adjacent to the section where such well is or will be located.

4.37 Landowner - shall mean any person who owns real estate or has contracted to purchase or otherwise acquire title to real estate.

4.38 Livestock Operation - shall mean 1) livestock kept in buildings, lots or pens, which normally are not used for the growing of crops or vegetation; or 2) any livestock kept in any livestock operation that is required by the Livestock Waste Management Act or state livestock waste regulations to obtain a permit from the Department of Environmental Quality; or 3) livestock which are confined for more than 90 days per year. Livestock Operation shall not mean livestock that are kept in pastures, on rangeland, or on other grazing lands and allowed to feed on vegetation growing therein.

4.39 Management Area - shall mean any area so designated by the District pursuant to Neb. Rev. Stat. § 46-712.

4.40 Management Plan - shall mean a ground water management plan developed by the District and submitted to the Director of the Nebraska Department of Natural Resources for review pursuant to Neb. Rev. Stat. §§ 46-709 through 46-711.

4.41 Non-Community Water System - shall mean a public water system that is not a community water system. A non-community water system is either a “transient non-community water system” or a “non-transient non-community water system.”

4.42 Non-Transient, Non-Community Water System - shall mean a public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same individuals over six (6) months per year (Examples: schools, colleges and hospitals).

4.43 Offset - shall mean any water that is used to compensate for ground water that has been either withdrawn or consumptively used since the effective date of these rules and regulations for any new or expanded use.

4.44 Operator - shall mean any person who has control over the day-to-day operations of the land in question, which shall include any landowner and/or any tenant.

4.45 Permit - shall mean an approved document that must be obtained from the District in accordance with Neb. Rev. Stat. §§ 46-735 through 46-738, and Neb. Rev. Stat. §§ 46-739(1)(k), 46-742 and 46-691.03, and the South Platte Natural Resources District’s rules and regulations for the enforcement of the Act.

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

4.47 Public Water System - shall mean a system for providing the public with water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days per year. Public water system includes 1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system and 2) any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such system. Public water system does not include a special irrigation district. A public water system is either a community water system or a non-community water system.

Service connection does not include a connection to a system that delivers water by a constructed conveyance other than a pipe if 1) the water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, cooking, and other similar uses, 2) the Department of Health determines that alternative water to achieve the equivalent level of public health protection provided by the Nebraska Safe Drinking Water Act (Act) and rules and regulations under the Act is provided for residential or similar uses for drinking and cooking, or 3) the Department of Health determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the Act and the rules and regulations under the Act.

4.48 Pooling Arrangement - shall mean any arrangement approved by the Board in which two or more certified irrigated tracts are combined.

4.49 Range Livestock - shall mean livestock that are kept in pastures, on rangeland, or on other grazing lands and allowed to feed on vegetation growing therein. Range livestock shall not mean 1) livestock kept in buildings, lots or pens, which normally are not used for the growing of crops or vegetation; or 2) any livestock kept in any livestock operation that is required by the Livestock Waste Management Act or state livestock waste regulations to obtain a permit from the Department of Environmental Quality. Livestock, which are confined for fewer than ninety (90) days per year, may be considered range livestock if they meet the other conditions in this definition.

4.50 Sprinkler - shall mean any irrigation system that uses pressure energy to form and distribute water droplets over the land surface. This includes permanent, semi-permanent, or moveable sprinkler systems such as set-move, solid-set, traveler, center pivot, and linear move sprinkler systems.

4.51 Test Hole - shall mean a hole designed solely for the purpose of obtaining information on hydrologic or geologic conditions.

4.52 Total Allocation - shall mean the current allocation and any carryforward from prior allocation periods.

4.53 Training Certification - shall mean a current certificate of completion issued by the District to the operator for completion of the necessary educational programs specified by the District.

4.54 Transfer - shall mean any arrangement approved by the Board through the granting of a permit for the physical transfer of ground water, the change in type of use of ground water, the addition of a type of use of ground water to the well, the transfer of certified acres, or the transfer of an allocation.

4.55 Transient Non-Community Water System - shall mean a non-community water system that does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year (Examples: rest stops, parks, convenience stores and restaurants with their own water supplies).

4.56 Variance - shall mean the approval of the District to act in a manner contrary to existing rules or regulations of the District, whose rule or regulation is otherwise applicable.

4.57 Water Well - shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground, obtaining hydrogeologic information, or extracting water from or injecting fluid as defined in Neb. Rev. Stat. § 81-1502 into the underground water reservoir. Water well includes any excavation made for any purpose if ground water flows into the excavation under natural pressure and a pump or other device is placed in the excavation for the purpose of withdrawing water from the excavation for irrigation. For such excavations, construction means placing a pump or other device into the excavation for the purpose of withdrawing water for irrigation. Water well does not include 1) 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 2) any structure requiring a permit by the Department used to exercise a surface water appropriation.

4.58 Other Types of Water Wells:

4.58.1 Abandoned Water Well - shall mean any water well 1) the use of which has been accomplished or permanently discontinued, 2) which has been decommissioned as described in the rules and regulations of the Department of Health and Human Services Regulation and Licensure, and 3) for which notice of abandonment required by Neb. Rev. Stat. § 46-602(8) has been filed with the Department by the licensed water well contractor or pump installation contractor who decommissioned the water well or by the water well owner if the owner decommissioned the water well.

4.58.2 Active Status Water Well - shall mean a water well which is in use and which is not an illegal water well.

4.58.3 Agricultural Water Well - shall mean any water well that pumps ground water for irrigation and/or aquaculture uses.

4.58.4 Commingled Water Wells - shall mean two or more water wells that are commingled, combined, clustered, or joined and shall be considered for the purpose of these rules and regulations as one water well. The combined capacity of commingled wells shall be used as the rated capacity. Commingled wells shall require a well construction permit pursuant to these rules and regulations and shall be subject to the same rules and regulations as any water well located within the District.

4.58.5 Dewatering Well - shall mean a water well constructed and used solely for the purpose of lowering the ground water table elevation.

4.58.6 Domestic Water Well - shall mean a water well, designed and constructed to pump fifty (50) gallons per minute or less, 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. Domestic water wells are exempt from the application of these rules and regulations.

4.58.7 Illegal Water Well - shall mean 1) any water well operated or constructed without or in violation of a permit required by the Nebraska Ground Water Management and Protection Act, 2) any water well not in compliance with the rules and regulations adopted and promulgated pursuant to the Act, 3) any water well not properly registered in accordance with Neb. Rev. Stat. §§ 46-602 to 46-604, 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, or 5) any water well which has not been properly decommissioned and which meets any of the following conditions:

4.58.7.1 The water well is in such a condition that it cannot be placed in active or inactive status;

4.58.7.2 Any necessary operation equipment has been removed and the well has not been placed in inactive status;

4.58.7.3 The water well is in such a state of disrepair that continued use for the purpose for which it was constructed is impractical;

4.58.7.4 The water well was constructed after October 1, 1986, but not constructed by a licensed water well contractor or by an individual on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode;

4.58.7.5 The water well poses a health or safety hazard;

4.58.7.6 The water well is an illegal water well in accordance with Neb. Rev. Stat. § 46-706; or

4.58.7.7 The water well has been constructed after October 1, 1986, and such well is not in

compliance with the standards developed under the Water Well Standards and Contractors' Licensing Act.

Whenever the Department classifies a water well as an illegal water well the landowner may petition the Department to reclassify the water well as an active status water well, an inactive status water well, or an abandoned water well.

4.58.8 Inactive Status Water Well - shall mean a water well that is not currently in use and is in a good state of repair and for which the owner has provided evidence of intent for future use by maintaining the water well in a manner which meets the following requirements:

4.58.8.1 The water well does not allow impairment of the water quality in the water well or of the ground water encountered by the water well;

4.58.8.2 The top of the water well or water well casing has a water-tight welded or threaded cover or some other water-tight means to prevent its removal without the use of equipment or tools to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes or contaminants into the water well;

4.58.8.3 The pump and pumping column have been removed;

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

4.58.8.4 The water well is marked so as to be easily visible and located in a labeled or otherwise marked so as to be easily identified as a water well and the area surrounding the water well is kept clear of brush, debris, and waste material.

4.58.9 Industrial or Commercial Water Well - shall mean any water well that pumps ground water at a rate in excess of 50 gallons per minute for use in non-municipal manufacturing, commercial, and/or power generation. Commercial use shall include, but not be limited to, maintenance of the turf of a golf course, livestock operations, and injection wells.

4.58.10 Irrigation Water Well - shall mean any water well that pumps ground water to certified irrigated acres located within the District for the production of forage or any agricultural crop.

4.58.11 Monitoring Water Well - shall mean a water well that is designed and constructed to provide ongoing hydrologic or water quality information and is not intended for consumptive use.

4.58.12 Observation Water Well - shall mean a water well that has been cased and is used for the purpose of monitoring static water levels.

4.58.13 Remediation Water Well - shall mean a water well, constructed to recovery well standards, for the purpose of withdrawal or treatment of contaminated water, or for the introduction or removal of air, water, or chemicals approved by the state agency with supervisory responsibility for the planned project.

4.58.14 Replacement Water Well - shall mean a water well which is constructed to provide water for the same purpose as the original water well and is operating in accordance with any applicable rules and regulations of the District and with any applicable permit from the Department 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 be used 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 range livestock, monitoring, observation, or any other nonconsumptive or de minimis use and is approved by the District on a case-by-case basis. In addition, the following requirements must be met: 1) such replacement well is not designed or constructed to pump more water than the well it replaces, 2) no more than one (1) replacement well may be used to replace the original well, 3) no replacement irrigation well may be installed for any well irrigating acres that have not been certified according to Rule 6.5, and 4) any replacement well shall be deemed to irrigate the same number of certified irrigated acres as the well it replaces.

4.58.15 Supplemental Water Well - shall mean a water well from which ground water is added to surface water for irrigation on certified irrigated acres.

5. GENERAL PROVISIONS AND PROCEDURES FOR ENFORCEMENT

5.1 Enforcement - The District shall enforce the Ground Water Management and Protection Act and all rules and regulations adopted pursuant to the issuance of a formal notice of an alleged violation and/or through the issuance of cease and desist orders in accordance with the procedures hereinafter specified and by bringing appropriate actions in the District Court of the county in which any violation occurs for the enforcement of such orders.

5.1.1 A formal notice of an alleged violation and/or a cease and desist order may be issued for, but not limited to, the following reasons:

- 5.1.1.1 To enforce any of the provisions of the Act or of orders or permits issued pursuant to the Act or these rules and regulations;
- 5.1.1.2 To initiate suits to enforce the provisions of the Act or order or permits issued pursuant to the Act or these rules and regulations;
- 5.1.1.3 To restrain the construction or operation of an illegal well as defined in these rules and regulations or the withdrawal or use of water from such illegal well;
- 5.1.1.4 Operation of an irrigation system in the management area that is in non-compliance with the allocable use of ground water as set forth in these rules and regulations;
- 5.1.1.5 Operation of a cropping system in the management area in violation of the controls provided for in these rules and regulations; and
- 5.1.1.6 Operation of a cropping system in the designated management area without a completion of certification in the education programs required by the District pursuant to Rule 6.4 of these rules and regulations.

5.1.2 In addition to the authority set forth in Neb. Rev. Stat. §§ 46-745 to 46-746, the District may enforce the Districtwide Ground Water Management Area Rules and Regulations through voluntary compliance and/or through a formal enforcement action. The District may impose penalties, including but not limited to, the reduction in whole or part of the allocation of water allocated to the certified irrigated acres within a certified irrigated tract that is the subject of the violation.

5.2 Inspections - A compliance officer may conduct an inspection to confirm compliance with or investigate the alleged violation of these rules and regulations. A compliance officer may conduct a field inspection upon showing proper identification and after informing the ground water user, landowner, or operator, either in person, by certified mail, return receipt requested, or by leaving notice posted at the ground water user, landowner or operators' last known address of the suspected violation(s) and the purpose of the inspection. A compliance officer shall be authorized to enter upon the land if necessary for the purpose of making an investigation of the alleged violation pursuant to these rules and regulations. Upon completion of the investigation of records or field activities, the compliance officer shall file a written report of his or her findings in the District office and shall

deliver a copy of the report to the ground water user, landowner, or operator.

5.3 Submission of Inspection Report Alleging Violation and Alleged Violator's Alternatives - If the compliance officer finds that there is reasonable cause to believe that the ground water user, landowner, or operator is in violation of these rules and regulations, the compliance officer's report shall be accompanied by a formal notice to the ground water user, landowner, or operator of the alternative actions available to the alleged violator.

Alternative actions include the following:

5.3.1 Agree with and accept as true and correct the compliance officer's findings that the alleged violation(s) has in fact occurred or is occurring and consent in writing to cease and desist from continuing or allowing the recurrence of such violation; and submit a schedule for corrective action pursuant to Rule 5.4; or

5.3.2 Reject the findings of the compliance officer's report and request in writing within seven (7) days (excluding Saturdays, Sundays, and legal holidays) of the receipt of said report that a formal hearing be scheduled and conducted in accordance with the rules and regulations of the District.

5.4 Schedule of Compliance - If the alleged violator agrees with the compliance officer's findings and further agrees to submit a plan to conform with these rules and regulations, the ground water user, landowner, or operator shall submit a plan within ten (10) days (excluding Saturdays, Sundays, and legal holidays) following the notification provided by the District. Failure to submit a plan within ten (10) days shall be deemed a rejection of the findings and shall be deemed a request for a formal hearing.

5.5 Voluntary Compliance - Subsequent to the submission of a plan to take corrective action, the District shall review the investigation report, the plan, and any other related or pertinent document necessary to evaluate the plan.

5.5.1 The District within its sole discretion shall determine whether the actions agreed to by the ground water user, landowner, or operator will, when implemented, bring the ground water user, landowner, or operator into compliance with these rules and regulations. If the District determines that the proposed actions of the ground water user, landowner, or operator are adequate and will prevent future violations within a reasonable time period, such action or plan will be approved and the District shall notify the ground water user, landowner, or operator of the District's approval and provide a schedule of compliance to complete the plan. As part of any voluntary compliance plan, the District may impose penalties including, but not limited to, the reduction in whole or part of the allocation of water allocated to the certified irrigated acres within a certified irrigated tract that is the subject of the violation.

5.5.2 If the District within its sole discretion determines that implementation of the proposed plan, schedule of compliance, or penalty would be inadequate to prevent further violation of the rules and regulations, the District shall inform the ground water user, landowner, or operator of its disapproval and shall make proposed changes or additions to the plan to obtain conformance with these rules and regulations. An alleged violator shall have five (5) days (excluding Saturdays, Sundays, and legal holidays) from the receipt of the proposed changes from the District to consent to such additions or changes, agree to negotiate, or reject such changes and request a formal hearing.

5.6 Formal Hearing - If voluntary measures cannot be agreed upon between the District and the ground water user, landowner, or operator, or if the ground water user, landowner, or operator rejects the findings of the compliance officer's report set forth in Rule 5.3.2, then the ground water user, landowner, or operator shall be given an opportunity to contest the investigation report, or the schedule of compliance required by the District, at a Board hearing or formal public hearing to be held no sooner than fifteen (15) days and not more than forty-five (45) days after receipt of the initial notice provided pursuant to Rule 5.3. Notice of the hearing shall be provided to the ground water user, landowner, or operator and any other necessary person. The District's rules for formal hearings shall govern the conduct of all such hearings. The ground water user, landowner, or operator shall be further notified that if he or she fails to respond to any notice and fails to appear at the scheduled hearing, the

Board shall proceed to make a final determination as to the alleged violation of these rules and regulations and shall determine if a formal cease and desist order shall be issued and enforced against the ground water user, landowner, or operator.

5.6.1 The Board may take any and all actions as it deems necessary to cause the ground water user, landowner, or operator to comply with these rules and regulations. A cease and desist order may be issued at the conclusion of the hearing if deemed necessary and appropriate by the Board.

5.7 Action of Ground Water User, Landowner, or Operator Following Issuance of a Formal Notice of Alleged Violation or a Cease and Desist Order - A ground water user, landowner, or operator who has been served with a formal notice of alleged violation or a cease and desist order for a violation of these rules and regulations shall be allowed seven (7) days (excluding Saturdays, Sundays, and legal holidays) following receipt of such order, to submit a schedule of compliance. The District will review the schedule of compliance and within its sole discretion shall determine if such plan satisfies these rules and regulations. If the plan fails to comply with these rules and regulations, the District shall proceed with the enforcement of the cease and desist order.

5.8 Board Authorization to Initiate Court Action - The Board may initiate appropriate legal actions to enforce any action or orders of the District.

5.9 Cease and Desist Order; Violation; Penalty - As provided by the Act, any violation of a cease and desist order issued by the District pursuant to the Act may be subject to a civil penalty assessed pursuant to Neb. Rev. Stat. § 46-746.

6. GROUND WATER CONTROLS - These controls apply to ground water users, landowners, or operators in the South Platte NRD Districtwide Ground Water Management Area.

6.1 Moratorium on Well Construction Permits and on New or Expanded Uses - Commencing on the effective date of these rules and regulations and except as provided hereinafter, no permits to construct a new water well in the management area will be issued unless a variance is granted. In addition, the expansion of irrigated acres or increases in the consumptive use of ground water withdrawals from water wells used for irrigation or other beneficial purposes except for domestic and range livestock purposes is prohibited unless a variance is granted or as provided by Neb. Rev. Stat. § 46-740.

6.2 Permit to Construct a Water Well - Any person intending to construct a water well for any purpose, except for test holes, dewatering wells with an intended use of ninety days or less, or domestic and range livestock purposes, within the management area shall apply for a permit to construct a water well from the District.

6.2.1 Applications for a permit must be completed by the applicant on forms provided by the District and be submitted to the District. Once a completed application is received, the District shall review the application and approve, approve with conditions, or deny the permit within thirty (30) days after the application is filed.

6.2.2 The applicant shall pay an application fee of fifty dollars (\$50) to the District.

6.2.3 Any person who fails to obtain a permit required by Rule 6.2 shall make application for a late permit on forms provided by the District, and shall pay a late application fee of two-hundred and fifty dollars (\$250) to the District.

6.2.4 When any permit is approved, the applicant shall commence construction as soon as possible after the date of approval and shall complete construction and equip the water well within six (6) months of approval.

6.2.5 If the applicant fails to complete the project under the terms of the permit, the District shall cancel the permit.

6.2.6 Permit applications shall be denied only if the District finds 1) that the location or operation of the proposed water well or other work would conflict with any regulations or controls adopted by the District; 2) that the proposed use would not be a beneficial use of water; or 3) in the case of a late permit only, that the applicant did not act in good faith in failing to obtain a timely permit.

6.3 Large User Permit - Any industrial or commercial user, any non-transient non-community public water supplier, or any transient non-community public water supplier who desires to withdraw and/or consumptively use ground water in amounts greater than twenty-five (25) million gallons per year shall, prior to commencing use, expanding use in amounts greater than twenty-five (25) million gallons per year, changing the use of an existing ground water well(s), commencing construction of a new or replacement ground water well(s), or modifies an existing well to consumptively use greater than twenty-five (25) million gallons per year must receive from the District a large user permit to authorize such withdrawal and/or use of ground water.

6.3.1 If the user is supplied by a municipality, an agreement must be in effect between the District and the municipality regarding understandings, commitments, and joint responsibilities related to the large user permit before the issuance of a large user permit.

6.3.2 An application for a large user permit shall include the following information:

6.3.2.1 If not supplied by a municipality, the name and post office address of each owner of the land where the well or wells are or will be located;

6.3.2.2 The name and address of the user or users of the ground water;

6.3.2.3 If not supplied by a municipality, the legal description of the tract of land where the well or wells are or will be located or if supplied by a municipality who will supply the ground water;

6.3.2.4 The legal description of the land on which the ground water will be used;

6.3.2.5 If any existing well will be used, the Department's water well registration number for the well, or if supplied by a municipality, the name of the municipality;

6.3.2.6 If a new or replacement ground water well will be constructed, the District's water well construction permit number;

6.3.2.7 A detailed description of the nature of the proposed use;

6.3.2.8 If not supplied by a municipality, the maximum rate of withdrawal from the well or wells;

6.3.2.9 If not supplied by a municipality, the range of maximum and average amounts of water proposed to be withdrawn on an annual basis;

6.3.2.10 The amount of ground water to be consumptively used from the water pumped from the well or wells or from municipality and a detailed explanation of how the amount of consumptive use was calculated;

6.3.2.11 Identification of any alternative sources of surface water or ground water available to the applicant for the proposed use and the reasons why the alternative source or sources will not be used;

6.3.2.12 An assessment of the effects that the proposed withdrawal and/or consumptive use of ground water may have on existing ground water users, on existing surface water users, and on ground water and surface water supplies needed to meet present or reasonable future demands within the state or to comply with any interstate water compact, decree, or any other formal state contract or agreement;

6.3.2.13 For a non-transient non-community public water supplier or a transient non-community public water supplier a proposed offset for the amount of consumptive use specified in accordance with 6.3.2.10 and a detailed explanation of how the proposed offset was calculated;

6.3.2.14 If not supplied by a municipality, an assessment of the effects of the proposed withdrawal and use on the environment in the vicinity of the proposed withdrawal and in the

vicinity of the proposed use; and

6.3.2.15 Any other information the applicant deems relevant to the District's criteria for approval of the proposed withdrawal and/or use, which are listed in 6.3.3 and 6.3.4.

6.3.3 The District may deny an application or condition the approval of any large user permit when necessary to:

6.3.3.1 Ensure compliance with the District's Management Area;

6.3.3.2 Prevent adverse effects on other ground water users or on surface water users;

6.3.3.3 Prevent adverse effects on the state's ability to comply with an interstate compact or decree or to fulfill the provisions of any other formal state contract or agreement; and

6.3.3.4 Protect the public interest and prevent detriment to the public welfare.

6.3.4 To determine whether approval of an application for a large user permit is in the public interest or detrimental to the public welfare, the District shall consider the following:

6.3.4.1 Whether the proposed use is a beneficial use of ground water;

6.3.4.2 The availability to the applicant of alternative sources of surface water or ground water for the proposed use;

6.3.4.3 Any negative effect of the proposed withdrawal and/or use on ground water or surface water supplies needed to meet reasonable future demands for water within the state;

6.3.4.4 The cumulative effects of the proposed withdrawal and/or use relative to the matters listed in 6.3.4.1 through 6.3.4.3 when considered in conjunction with all other ground water uses;

6.3.4.5 Whether the proposed withdrawal and/or use is consistent with the integrated management plan; and

6.3.4.6 Any other factors that the District deems relevant to protect the public interest and prevent detriment to the public welfare.

6.3.5 All large user permits issued by the District shall be conditioned on the following:

6.3.5.1 If not supplied by a municipality, the applicant's installation and maintenance of a District approved flow meter on the well or wells that will be used for withdrawal and/or use;

6.3.5.2 If not supplied by a municipality, the applicant's submission of an annual report to the District, by October 1 of each year, containing the total volume of water pumped and total volume of ground water consumptively used in the preceding year (August 1 to July 31).

6.3.5.3 If supplied by a municipality, the applicant's submission of an annual report to the District by October 1 of each year, containing the total volume of ground water consumptively used in the preceding year (August 1 to July 31).

6.3.5.4 Compliance with all applicable statutes and rules and regulations, including any statutes or rules and regulations adopted after the District's approval of the permit.

6.4 Training Certification: Education in Irrigation and Nitrogen Management - Any operator of irrigated land within the management area shall obtain necessary training and education certification.

6.4.1 The required training and education may be accomplished through the participation in approved training and education programs held by the District. Certification requires the successful completion of the program. The educational program is more fully set forth in the Ground Water Management Plan.

6.5 Certification of Irrigated Acres - Beginning March 1, 2006, no ground water user, landowner, or operator may irrigate with ground water on a tract of land within the management area until he or she obtains certification from the District. In addition, a variance request must be submitted to the Board with the application for obtaining certification. The process for obtaining certification is as follows:

6.5.1 Any ground water user, landowner, or operator who uses ground water to irrigate must obtain certification from the District for each irrigated tract of land. The ground water user, landowner, or operator shall complete the application process on forms provided by the District. The following information shall be included with the application:

- 6.5.1.1 Location of each irrigated tract of land by legal description to the nearest quarter section;
- 6.5.1.2 An aerial photo or map of the tract of land;
- 6.5.1.3 The size of each irrigated tract of land, in acres;
- 6.5.1.4 The registration number(s) of any well(s) used to irrigate each tract of land;
- 6.5.1.5 Identification of any sources of irrigation water other than ground water;
- 6.5.1.6 Historical documentation of irrigated acres;
- 6.5.1.7 If the land is within the fully appropriated area or the South Platte Valley Subarea, documentation of irrigated acres as of July 1, 1997, and documentation of irrigated acres as of December 31, 2004;
- 6.5.1.8 If the land is within the overappropriated area excluding the South Platte Valley Subarea, documentation of irrigated acres up to crop year 2002.

6.5.2 Any ground water user, landowner, or operator who owns or controls a registered irrigation well but has not used such well because 1) the land has been enrolled in the Conservation Reserve Program (or other long term government program), or 2) of financial hardship, may obtain certification of such acres as irrigated by providing documentation proving an irrigated crop history. Such documentation may include, but is not limited to, crop insurance, Farm Service Agency records, or county assessor records.

6.5.3 Consideration of Applications and Decision on Certification - All applications for certification and variance requests must be submitted to the District's office on forms supplied by the District.

6.5.3.1 In considering each application and variance request, the District may take into account the following:

- 6.5.3.1.1 Information submitted with the application;
- 6.5.3.1.2 Records of the U.S. Department of Agriculture;
- 6.5.3.1.3 Records of the county assessor;
- 6.5.3.1.4 Evidence submitted by the applicant or the District's staff; and
- 6.5.3.1.5 Any other information deemed relevant by the District.

6.5.3.2 The District may request additional information from an applicant. Certification will be based on the size and location of an irrigated tract of land, or on the amount and purpose of other uses in calendar year 2004 if the land is within the fully appropriated area (as shown on map in Appendix B) or the South Platte Valley Subarea. If the land is in the overappropriated area (as shown on map in Appendix B) excluding the South Platte Valley Subarea the certification will be based on those acres irrigated up to the crop year 2002. Applicants who believe that information for the year 2002 or 2004 does not reflect customary conditions for that ground water use may produce evidence to support their belief. The District will consider this evidence in its determination whether to certify the tract.

6.5.3.3 A majority vote by the members of the Board of Directors present at a public meeting of the Board shall be required for approval of a variance and an application for certification. The Board, in its sole discretion, may re-evaluate any determination on certification.

6.5.4 Modification of Certified Irrigated Acres or Certified Irrigated Tracts - A ground water user, landowner, or operator of land that intends to make changes to certified irrigated acres or certified irrigated tracts subsequent to the effective date of the management area may make an application to modify the certified irrigated acres or certified irrigated tracts. Such application

shall be made on forms provided by the District in the same manner as described in Rules 6.5.1 and 6.5.3 of these rules and regulations.

6.5.4.1 A majority vote by the members of the Board of Directors present at an open meeting of the Board shall be necessary for approval of an application to modify certified irrigated acres. The Board may re-evaluate any determination on certification as necessary.

6.6 Flow Meters - Except as otherwise provided in this section (Rule 6.6), any ground water user, landowner, or operator, who uses any water well or wells capable of pumping greater than 50 gallons per minute, with the exception of agricultural wells, shall be required to install a flow meter on such well subject to the following terms and conditions:

6.6.1 Schedule for Installation of Flow Meters

6.6.1.1 Any irrigation water well within the boundaries of the South Platte NRD shall have a flow meter installed and operational in accordance with the following schedule:

6.6.1.1.1 For the Lodgepole Creek Integrated Ground Water Management Subarea:

6.6.1.1.1.1 Each ground water user, landowner, or operator in Cheyenne County:

6.6.1.1.1.1.1 Is encouraged to install a flow meter on each well on or before May 1, 2004.

6.6.1.1.1.1.2 Is required to install a flow meter on each well on or before March 1, 2005.

6.6.1.1.1.2 Each ground water user, landowner, or operator in Kimball County shall:

6.6.1.1.1.2.1 Install a flow meter on each well on or before March 1, 2005, unless such user has more than one well in which event such user shall install a flow meter on not less than fifty (50) percent of such user's wells on or before March 1, 2005.

6.6.1.1.1.2.2 Install a flow meter on each remaining well on or before March 1, 2006.

6.6.1.1.1.3 Each ground water user, landowner, or operator in Deuel County shall:

6.6.1.1.1.3.1 Install a flow meter on each well on or before March 1, 2006, unless such user has more than one well in which event such user shall install a flow meter on not less than fifty (50) percent of such user's wells on or before March 1, 2006.

6.6.1.1.1.3.2 Install a flow meter on each remaining well on or before March 1, 2007.

6.6.1.1.2 For areas outside the Lodgepole Creek Integrated Ground Water Management Subarea:

6.6.1.1.2.1 Each ground water user, landowner, or operator in Cheyenne County shall:

6.6.1.1.2.1.1 Install a flow meter on each well on or before March 1, 2007, unless such user has more than one well in which event such user shall install a flow meter on not less than fifty (50) percent of such user's wells on or before March 1, 2007.

6.6.1.1.2.1.2 Install a flow meter on each remaining well on or before March 1, 2008.

6.6.1.1.2.2 Each ground water user, landowner or operator in Kimball County shall:

6.6.1.1.2.2.1 Install a flow meter on each well on or before March 1, 2008, unless such user has more than one well in which event such user shall install a flow meter on not less than fifty (50) percent of such user's wells on or before March 1, 2008.

6.6.1.1.2.2.2 Install a flow meter on each remaining well on or before March 1, 2009.

6.6.1.1.2.3 Each ground water user, landowner or operator in Deuel County shall:

6.6.1.1.2.3.1 Install a flow meter on each well on or before March 1, 2009.

6.6.1.2 For all aquaculture wells, a flow meter shall be installed on or before July 1, 2008; for municipal and industrial wells, a flow meter shall be installed on or before March 1, 2009; for all other water wells required to have a flow meter installed as per Rule 6.6, a flow meter shall be installed on or before March 1, 2010.

6.6.1.3 Commingled wells installed before the effective date of these rules and regulations are required to be fitted with a flow meter in accordance with the flow meter installation schedule as established in Rule 6.6.1.1 or Rule 6.6.1.2 above.

6.6.1.4 A water well which is qualified as an inactive status water well as defined in these rules and regulations before the date scheduled for the installation of a flow meter as required above and remains in such inactive status on the scheduled installation date, is exempt from such installation requirement, provided however, if such well is returned to active status after the date scheduled for installation, then a flow meter shall be installed before returning such well to active status.

6.6.1.5 A water well which serves two or more uses, regardless of pumping capacity, shall have a separate flow meter installed for each use according to the installation schedule as established in Rule 6.6.1.1 or Rule 6.6.1.2, unless one of the uses is for domestic or range livestock. In such case, a flow meter will not be required on the domestic or range livestock use.

6.6.1.6 A ground water user, landowner, or operator of any registered irrigation well may temporarily defer the installation of a flow meter for a period of no more than three (3) years by notifying the District on forms supplied by the District that such well will not be used for the time period specified in the notice ("temporary deferment"). A temporary deferment may be renewed for an additional three (3) year period, upon proper notification to the District as described in this subsection 6.6.1.6.

6.6.1.6.1 The District staff, upon receiving such notice of temporary deferment, shall inspect such well and tag it with a red tag, which shall signify that the temporary deferment has been approved and that such well cannot be used during the time period specified in such notice.

6.6.1.6.2 The number of certified irrigated acres and/or tracts will remain with the well associated with such acres and/or tracts during the temporary deferment period.

6.6.1.6.3 If during the temporary deferment a ground water user, landowner, or operator

desires to terminate the temporary deferment, he or she shall notify the District of such termination and a flow meter shall be installed on any such well within 15 days of such notification. After the flow meter has been installed, District staff shall remove the red tag and the well may then be used.

6.6.1.6.3.1 A temporary deferment may only be terminated at the end of the calendar year for any year within the three (3) year temporary deferment period.

6.6.1.6.4 When the well is returned to active status, the allocation amount for the well will be the prorated portion remaining in an allocation period.

6.6.2 Flow Meter Specifications and Requirements - Any flow meter which a ground water user, landowner, or operator installs, operates, and maintains for the purpose of compliance with these rules and regulations:

6.6.2.1 Shall be selected from a list and in conformance with a **technical manual**, compiled and approved by the Board of Directors of the District. The Board may amend this list and manual from time to time without amending these rules and regulations. The approved list and manual shall be available for inspection at the District office during regular business hours.

6.6.2.2 All flow meters installed prior to the effective date of these rules and regulations shall comply with the specifications and requirements stated herein. The meter(s) shall be accurate to within five (5) percent of a meter operated and maintained by District staff. In any event, all non-complying flow meters must be replaced in accordance with the flow meter installation schedule as established in Rule 6.6.1.

6.6.2.3 Each flow meter shall be installed (physically attached) according to the manufacturer's specifications and calibrated to the pipe size on each well. All flow meters shall be permanently mounted in the irrigation system, or installed to enable the District to seal the meter to the irrigation system. Calibration shall be maintained at an accuracy of plus or minus two (2) percent of a normal flow range. Each flow meter shall be installed by a **technician certified by the SPNRD**.

6.6.2.4 For wells that pump greater than 50 gallons per minute, the meter registry of each flow meter shall have a visual volume recording totalizer, which shall record the volume of water in acre-inches. Each flow meter shall also have a clearly visible and readable analog or digital display that provides a real time reading of the rate of flow of water through the flow meter.

6.6.2.5 For wells that pump 50 gallons per minute or less, the meter registry of each flow meter shall have a visual volume recording totalizer, which shall record the volume of water in gallons, acre-feet or acre-inches.

6.6.2.6 The registry of each flow meter shall be protected from the elements of weather. Totalizers shall have sufficient capacity to record the quantity of water withdrawn from each well or commingled wells for the period of one (1) year.

6.6.2.7 District personnel shall seal each flow meter. No seal shall be removed, broken, or unfastened without prior approval of the District.

6.6.2.8 Each flow meter shall measure the entire amount of water pumped by a well or commingled wells in conformance with all specifications and requirements contained within these rules and regulations. In the event that water from two (2) or more wells is commingled, one

flow meter may be installed at a point after the water has been commingled.

6.6.3 Flow Meter Readings, Inspections and Maintenance

6.6.3.1 The District shall have the power and authority, pursuant to *Neb. Rev. Stat. § 2-3232(1)*, to enter upon any land, after notifying the owner or occupier, for the purpose of conducting studies, investigations, surveys, and research to carry out its authorized purposes.

6.6.3.2 Each flow meter shall be kept in good working condition and clear of debris, vegetative growth, or other material that could interfere with or impede the operation or performance of such flow meter.

6.6.3.3 A ground water user, landowner, or operator of a water well or wells subject to these rules and regulations shall ensure that each flow meter installed on such well or wells are fully functional, properly maintained, and in good working condition.

6.6.3.4 Any malfunctioning flow meter shall be reported to the District office at Sidney, Nebraska, by the ground water user, landowner, or operator within twenty-four (24) hours after discovery, unless such discovery is on a weekend or holiday recognized by the State of Nebraska. In that event, such malfunction shall be reported before the office closes on the first working day following the discovery. During the time when such flow meter is malfunctioning or removed from the well for service, repair, or replacement, the ground water user, landowner, or operator shall use a method approved by the District to determine the volume of water withdrawn from the well. The ground water user, landowner, or operator shall use best efforts to put the flow meter back in service as soon as possible.

6.6.3.5 The District may require any ground water user, landowner, or operator to provide information that will enable District staff to determine the amount of energy used to operate any well on which a flow meter has been installed. Such ground water user, landowner, or operator shall provide such information upon request, or authorize District staff to obtain such information from the utility which provides such power. District staff shall request such information when a flow meter is malfunctioning, or if the ground water user, landowner, operator or District staff have reason to believe the flow meter reading is incorrect. If any power source on a well within the management area is equipped with an hour meter, the District may require a ground water user, landowner, or operator to provide appropriate readings from said hour meter.

6.6.4 Damage to or Tampering with Flow Meters

6.6.4.1 It shall be a violation of these rules and regulations for any person to willfully damage, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere with or tamper with any flow meter within the management area for the purpose or with the intent to produce an incorrect, inaccurate, or misleading measurement, or to cause, procure, or direct any other person to do so. Removing, damaging, or unfastening a seal affixed to a flow meter by District staff will be considered as tampering with a flow meter within the meaning of this subsection 6.6.4.1.

6.7 Allocation System for Agricultural Uses - The hydrologic characteristics of each subarea were considered in arriving at the amounts for allocation purposes. Those subareas are shown on the map attached as Appendix C.

6.7.1 Allocations for Irrigation Uses

6.7.1.1 Allocation amounts in acre-inches by subarea are as follows:

Allocation Periods

Subarea A – Wyoming State Line to Oliver Reservoir (Road 27)	= 42”	(3-year total)
Subarea B – Oliver Reservoir (Road 27) to Buffalo Bend (Road 87)	= 48”	(3-year total)
Subarea C – Buffalo Bend (Road 87) to Sidney (Road 115)	= 42”	(3-year total)
Subarea D – Sidney (Road 115) to Colorado State Line	= 48”	(3-year total)
Subarea E – South Platte Valley	= 80”	(4-year total)
Subarea F – Tablelands	= 80”	(4-year total)

6.7.1.1.1 Allocations in Subareas A, B, C, and D will have a three (3) year allocation period beginning in 2007. Allocations for the Subareas E and F will begin in 2009. In order for the District to integrate the allocation periods between Subareas A, B, C, D and Subareas E and F, Subareas E and F will initially have a four (4) year allocation period.

6.7.1.1.1.1 Beginning in 2012, the Board will begin deliberations to set the allocations for a new three (3) year allocation period beginning in 2013, which will be applicable to the allocation periods for all subareas.

6.7.1.2 The Board intends to set the allocations approximately one (1) year in advance of each new allocation period.

6.7.1.3 Carryforward of up to ten (10) acre-inches is allowed following the initial three (3) year allocation period in Subareas A, B, C, D and the initial four (4) year allocation period for Subareas E and F. In any subsequent allocation period the limit of the amount that will be allowed to be carried forward into the next allocation period is ten (10) acre-inches. The cap on the amount of carryforward (“carryforward cap”) that may be accumulated over multiple allocation periods and used in subsequent allocation periods is ten (10) acre-inches.

6.7.1.4 Use that exceeds the total allocation shall result in the following penalties:

6.7.1.4.1 For every inch that exceeds the total allocation up to a maximum of three (3) additional inches per acre, an equal number of inches shall be subtracted from the next allocation period.

6.7.1.4.2 For every inch that exceeds the three (3) inches per acre maximum established in Rule 6.7.1.4.1, twice the number of inches shall be subtracted from the next allocation period.

6.7.1.5 Any certified irrigated tract that is enrolled in federal and/or state water conservation program(s), shall not receive an allocation for the period of time that such tract is enrolled in such program. Provided however, if such tract is removed from such program, then it will become eligible to receive a prorated allocation for the remaining year(s) of the allocation period.

6.7.1.6 A ground water user shall not be entitled to use any ground water for any allocation period, unless such user shall have a positive balance in his or her total allocation at the end of each year for any such allocation period. The District will notify landowners and/or ground water users, following the District’s annual reading of flow meters, whether they have a positive balance in their total allocation.

6.7.1.7 Supplemental Water Well - For the allocation period commencing in 2007 and ending in 2009 for Subareas A, B, C and D, and for the allocation period commencing in 2009 and ending in 2012 for Subarea E:

6.7.1.7.1 The allocations listed per Subareas A, B, C, D and E in accordance with Rule 6.7.1.1, will be reduced by any amount of surface water delivered to or transferred to certified irrigated acres that would otherwise be irrigated from such supplemental water well.

6.7.2 Allocations for Aquaculture Uses

6.7.2.1 As of the effective date of these rules and regulations, there is no allocation for aquaculture uses, but the Board intends to set an allocation for these uses in the future.

6.8 Transfers

6.8.1 Physical Transfer of Ground Water Off Overlying Land Located in the District; Permit Required - Except as provided in Rule 6.8.2 below, any person who withdraws ground water from a well located within the District and physically transfers or intends to physically transfer such water off the overlying land shall apply for a transfer permit on forms provided by the District and before commencing the transfer, be granted a transfer permit.

6.8.1.1 Permits will not be granted under this section if the ground water is discharged into an open ditch and transported by such ditch to a location other than the overlying land.

6.8.1.2 Permits will be required from the Department when ground water is discharged into a natural stream or channel and transported by such natural stream or channel for use elsewhere.

6.8.1.3 Changes in Certified Irrigated Tracts or Certified Irrigated Acres - Whenever the location of certified irrigated tracts or number of certified irrigated acres change as a result of the physical transfer of ground water off the land where water is withdrawn, pursuant to Rule 6.8.1, the landowner or person in control of certified irrigated tracts or certified irrigated acres shall notify the District in writing of such change within thirty (30) days of the initiation of the transfer.

6.8.2 Exceptions to Rule 6.8.1 - No transfer permit shall be required pursuant to Rule 6.8.1 if the withdrawal and physical transfer of ground water complies with any one or more of the following exceptions; provided however, that notice of such transfer shall be given to the District within thirty (30) days of the commencement of such transfer:

6.8.2.1 The withdrawal and transfer of ground water was begun prior to the effective date of Rule 6.8.1 and was at that time in compliance with all applicable District rules and regulations and all applicable state statutes and regulations.

6.8.2.2 The proposed withdrawal and transfer of ground water is for domestic purposes only and is subject to Neb. Rev. Stat. § 46-691.01.

6.8.2.3 The proposed withdrawal and transfer of use is solely for the purpose of providing water to range livestock.

6.8.2.4 The withdrawal and transfer has been approved by the Department prior to July 16, 2004.

6.8.2.5 The proposed withdrawal and transfer is for agricultural purposes, or for any purpose pursuant to a ground water remediation plan as required under the Nebraska Environmental Protection Act, pursuant to Neb. Rev. Stat. § 46-291, and all locations where the water will be used for such purposes are no more than two (2) miles from the location(s) of the well(s) from which the ground water is withdrawn.

6.8.2.6 If a replacement well is constructed, the original well may be modified and equipped to pump fifty (50) gallons per minute or less and be used only for range livestock, monitoring, observation, or any other nonconsumptive or de minimis use approved by the SPNRD.

6.8.3 Transfer of Type of Use or Addition of Use of Ground Water - Any person who withdraws ground water from a well located within the District and transfers the type of use of that water (e.g. irrigation to industrial) or adds a type of use of ground water to the well (e.g. adds an industrial use to an existing irrigation well), shall apply for a transfer permit on forms provided by the District and before commencing the transfer, be granted a transfer permit.

6.8.3.1 No change in the type of use of ground water shall be approved unless such change results in no increase in the historical consumptive use or an offset is provided for any increase in historical consumptive use of the ground water to be transferred. If a type of use of ground water is added to the well, the transfer permit will not be approved unless there is not an increase in historical consumptive use or an offset is provided for any increase in historical consumptive use.

6.8.3.1.1 In the case where a type of use of ground water is added to the well, a separate flow meter will be required for each use, unless one of the uses is for domestic or range livestock. In such case, a flow meter will not be required on the domestic or range livestock use.

6.8.3.2 No person shall use a water well for purposes other than its registered purpose until the water well registration has been changed to the intended new use or the additional use has been added to the registration.

6.8.3.2.1 In the case of a replacement well, a person may modify and equip the original water well to be used for range livestock, monitoring, observation, or any other nonconsumptive or de minimis use approved by the SPNRD.

6.8.3.3 The change to a new use or the addition of a use shall be made by filing a water well registration modification with the Department and the change must be in conformance with Neb. Rev. Stat. §§ 46-609(1) and 46-651.

6.8.4 Transfer of Certified Acres

6.8.4.1 Permanent or temporary transfers of certified irrigated acres may occur only if the following conditions are met:

6.8.4.1.1 All such transfers must be within county lines and within that portion of the allocation subarea within the county (allocation subareas and county lines are shown on the attached map in Appendix C);

6.8.4.1.2 No such transfers shall be allowed between allocation subareas; and

6.8.4.1.3 All such transfers must be approved by the Board and are subject to conditions imposed by the Board.

6.8.4.2 Unless the Board approves a variance, transfers of certified irrigated acres are prohibited until 1) three (3) irrigation seasons following installation of a flow meter on the affected well have been completed in order to provide irrigation history, and 2) an allocation system has been implemented pursuant to these rules.

6.8.4.3 In order to transfer one hundred percent (100%) of the certified irrigated acres, at least sixty percent (60%) or more of the allocation must have been used during the allocation period, and proof of such use must accompany the application submitted to the Board.

6.8.4.4 Transfers of less than one hundred percent (100%) of the certified irrigated acres may occur when less than sixty percent (60%) of the allocation has been used during the allocation period. In such instances, the applicant may apply to transfer the amount of the certified irrigated acres equal to the percent use of the allocation for the allocation period.

6.8.4.5 The permanent transfer of certified irrigated acres may be accomplished by decertifying the irrigated acres with the District and certifying the transferred acres with the District.

6.8.4.6 Transfers of ground water certified acres from land that is also served by surface water will not be permitted unless the surface water appropriation is relinquished for that parcel of land, an offset is provided for the new acres to be irrigated, or that surface water right is transferred to the same acres the ground water is being transferred to.

6.8.4.7 Certified Acres Served by Ground Water and Surface Water

6.8.4.7.1 Transfers of ground water certified acres from land that is also served by surface water will not be permitted unless the surface water appropriation is relinquished for that land, an offset is provided for the new acres to be irrigated, or the ground water certified acres are being transferred to the same acres to which the surface water right is transferred.

6.8.4.7.2 Ground water certified acres served by a supplemental well will be decertified or proportionately reduced whenever a surface water right is transferred away or otherwise eliminated unless a provision is made to prevent an increase in the consumptive use of ground water, an offset is provided for the increased consumptive use of ground water, or the ground water certified acres are transferred to the same acres to which the surface water right is transferred.

6.8.4.8 An application for a transfer of certified acres shall include, but not be limited to the following:

6.8.4.8.1 Application form (available from the District);

6.8.4.8.2 Proof of ownership from tax assessor for each certified irrigated tract to be involved in the transfer; and

6.8.4.8.3 Aerial photograph showing tracts to be involved in the transfer.

6.8.4.9 Nothing contained in Rule 6.8.4 is intended or shall be construed as:

6.8.4.9.1 Permitting the development of any new well; or

6.8.4.9.2 Prohibiting a person from pursuing a variance from these rules and regulations, pursuant to Rule 7.

6.8.5 Transfer of Allocation

6.8.5.1 Permanent or temporary transfers of allocations may occur only if the following conditions are met:

6.8.5.1.1 All such transfers must be within county lines and within that portion of the allocation subarea within the county (allocation subareas and county lines are shown on the attached map in Appendix C);

6.8.5.1.2 No such transfers shall be allowed between allocation subareas; and

6.8.5.1.3 All such transfers must be approved by the Board and are subject to conditions imposed by the Board.

6.8.5.2 Full or partial transfers of allocation may occur; however, in all cases, the maximum amount that may be transferred is limited to the lowest base allocation for any allocation subarea in the District during the allocation period. The transfer of any carryforward is prohibited.

6.8.5.3 In any case where the transfer of the total amount of the allocation is requested, the well, that would otherwise be used if the transfer was not requested, may not be used during the period covered by the transfer, and must be configured to prevent the possibility of contamination of the ground water.

6.8.5.4 If a permanent transfer of any allocation is requested from wells that have been commingled, combined, clustered or joined with other water wells, only the pro-rata portion of the allocation for each well may be transferred.

6.8.5.5 The permanent transfer of an allocation and the certified irrigated acres for which such allocation has been made, may be accomplished by 1) decommissioning the well, 2) filing a notice of abandonment with the Department, and 3) decertifying the irrigated acres with the District.

6.8.5.6 Nothing contained in Rule 6.8.5 is intended or shall be construed as:

6.8.5.6.1 Permitting the development of any new well; or

6.8.5.6.2 Prohibiting a person from pursuing a variance from these rules and regulations, pursuant to Rule 7.

6.8.6 Transfers of Ground Water from Outside the District to Inside the District - District approval is required before ground water is transferred from a well located outside the District for use within the District, unless such transfer began before the effective date of these rules and regulations or the water is used solely for domestic purposes. Such approval shall be granted if the proposed transfer of the ground water is not inconsistent with the District's rules and regulations and if the applicant agrees that such approval may be conditioned on the water use being in conformance with District rules and regulations relating to the use of water withdrawn inside the District. The transfer must be in conformance with any applicable transfer rules of the NRD from which the transfer originates. The applicant shall provide the District with such information as the District deems necessary to make such determinations.

6.8.7 Municipal Transfer Permits

6.8.7.1 The District shall approve, without the filing of a District transfer permit application, the withdrawal and transport of ground water when a public water supplier providing water for municipal purposes receives a permit from the Department pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act. If a public water supplier files an application for a permit from the Department under the Municipal and Rural Domestic Ground Water Transfers Permit Act, then the permit applicant shall advise the District of its filing.

6.8.7.1.1 Any variance approved by the Board for the public water supplier at any time before or during the permitting process shall be forwarded to the Department. Any condition of the variance approval shall be clearly stated, along with monitoring and/or compliance provisions.

6.8.7.1.2 When the Department initiates the consultation with the District regarding a permit application, the District shall respond according to the following provisions:

6.8.7.1.2.1 The District shall advise the Department of any of the applicant's unmet obligations under District rules (e.g. variance not yet applied for or granted).

6.8.7.2 Transfers for a public water supply not permitted under the Municipal and Rural Domestic Ground Water Transfers Permit Act shall require a transfer permit from the District in accordance with Rule 6.8.1 if such transfer will cross a municipal boundary.

6.8.7.2.1 Copies of variances or District permit applications for municipal uses shall be forwarded to the Department for review, to ensure that compliance with any interstate compacts or formal state agreements will be maintained.

6.8.7.2.2 A water well construction permit shall not be issued until the Board has granted a variance to the moratorium on the issuance of water well construction permits and has approved the transfer permit.

6.8.7.2.3 In considering the transfer permit application for a municipal transfer, the District shall examine the factors found in Rules 6.8.10.5, 6.8.10.6, and 6.8.10.7 and those including, but not limited to, the following:

6.8.7.2.3.1 Whether the proposed withdrawal, use, and transfer is reasonable;

6.8.7.2.3.2 Whether the proposed withdrawal, use, and transfer is not contrary to the conservation and beneficial use of ground water;

6.8.7.2.3.3 Whether the proposed withdrawal, use, and transfer is not otherwise detrimental to the public welfare; and

6.8.7.2.3.4 Nature of the proposed use.

6.8.7.2.4 Copies of both the well construction permit and the District transfer permit shall be filed with the Department along with the water well registration.

6.8.8 Industrial Transfer Permits

6.8.8.1 Transfers for which permits or approval for transfer have been obtained from the Department pursuant to the Industrial Ground Water Regulatory Act are not required to apply for a transfer permit from the District. Commercial and industrial users who are required to file for a permit from the Department under the Industrial Ground Water Regulatory Act shall advise the District of such application.

6.8.8.1.1 Any variance approved by the Board for the industrial or commercial user at any time before or during the permitting process shall be forwarded to the Department. Any condition of the variance approval shall be clearly stated, along with monitoring and/or compliance provisions.

6.8.8.1.2 When the Department initiates the consultation with the District regarding a permit application, the District shall respond according to the following provisions:

6.8.8.1.2.1 The District shall advise the Department of any of the applicant's unmet obligations under District rules (e.g. variance not yet applied for or granted).

6.8.8.1.3 A water well construction permit shall not be issued until the industrial transfer permit has been obtained from the Department, a copy of the permit is on file with the District, and a variance to the moratorium on the issuance of water well construction permits has been granted by the Board.

6.8.8.2 Industrial transfers that are not required to be permitted under the Industrial Ground Water Regulatory Act shall require a District transfer permit.

6.8.8.2.1 Copies of variances or District permit applications for industrial uses shall be forwarded to the Department for review, to ensure that no state industrial transfer permit is also required and that compliance with any interstate compacts or formal state agreements will be maintained.

6.8.8.2.2 A water well construction permit shall not be issued until the Board has granted a variance to the moratorium on the issuance of water well construction permits and has approved the transfer permit.

6.8.8.2.3 In considering the transfer permit application, the District shall examine the factors found in Rules 6.8.10.5, 6.8.10.6, and 6.8.10.7 and those including, but not limited to, the following:

- 6.8.8.2.3.1 Possible adverse effects on existing surface or ground water users;
- 6.8.8.2.3.2 Effect on surface or ground water supplies needed to meet reasonably anticipated domestic and agricultural demands in the area of the proposed withdrawal;
- 6.8.8.2.3.3 Economic benefit of the proposed use;
- 6.8.8.2.3.4 Social and economic benefits of existing uses of surface or ground water in the area;
- 6.8.8.2.3.5 Any waivers of liability from existing users filed with the District;
- 6.8.8.2.3.6 Effects on any interstate compacts or formal state agreements; and
- 6.8.8.2.3.7 Other factors reasonably affecting the equity of granting the permit.

6.8.8.2.4 Copies of both the well construction permit and the District transfer permit shall be filed with the Department along with the water well registration.

6.8.9 Transfer Out of State

6.8.9.1 Requests for transfer of ground water out of state pursuant to Neb. Rev. Stat. § 46-613.01 shall require District approval but will not be acted upon by the District until such time as the approval or denial, by the Department, of the required transfer permit.

6.8.9.2 Any person desiring to transfer ground water to an adjoining state shall advise the District of the proposed transfer no later than the filing of a permit application with the Department.

6.8.9.3 When the Department initiates the consultation with the District regarding a permit application, the District shall respond according to the following provisions:

6.8.9.3.1 The District shall advise the Department of any of the applicant's unmet obligations under District rules (e.g., variance not yet applied for or granted);

6.8.9.3.2 Any formal action taken by the Board adopting any offset for uses other than municipal and industrial uses determined by the District or the Department to be necessary to maintain compliance with any interstate compacts or formal state agreements or to mitigate any effects to surrounding ground water users or surface water appropriators; and

6.8.9.3.3 If the District determines an offset on behalf of the user, the nature of the offset and the enforcement provisions that will be required.

6.8.9.4 A water well construction permit shall not be issued until a permit to transfer ground water to an adjoining state has been obtained from the Department, a copy of the permit is on file with the District, and a variance to the moratorium on the issuance of water well construction permits has been granted by the Board.

6.8.10 Application for Transfer Permit(s)

6.8.10.1 An application for a District permit to transfer subject to Rules 6.8.1, 6.8.3, 6.8.4, 6.8.5, 6.8.6, 6.8.7.2, and 6.8.8.2 shall include the following information:

6.8.10.1.1 The name and post office address of each owner of the land where the well or wells are or will be located, and if another person or persons operate such well, the name and address of such person or persons;

6.8.10.1.2 The name and post office address of the owner or owners of the land where the water is to be transferred for use;

6.8.10.1.3 The legal description of the tract of land where the well or wells are or will be located;

6.8.10.1.4 The legal description of the tract of land where the water is to be transferred for use;

6.8.10.1.5 If an existing well will be used, the Department water well registration number for such well;

6.8.10.1.6 The nature of the proposed use;

6.8.10.1.7 The maximum rate of withdrawal from the well or wells to be used as the source of water for the transfer;

6.8.10.1.8 The range of the maximum and average amounts of water proposed to be withdrawn and transferred on an annual basis;

6.8.10.1.9 If the withdrawal and transfer is temporary, the time period for which a District permit is being sought;

6.8.10.1.10 An aerial photo or photos showing the proposed point(s) of withdrawal, the proposed point(s) of delivery, and the transfer route(s);

- 6.8.10.1.11 Identification of any alternative sources of surface water or ground water available to the applicant for the proposed use and the reasons why use of such alternative source or sources is not being sought;
- 6.8.10.1.12 An assessment of the effects of the proposed withdrawal, transfer, and use on existing ground water users, on existing surface water appropriators, and on ground water and surface water supplies needed to meet present or reasonable future demands within the state or to comply with any interstate water compact or decree or with any other formal state contract or agreement;
- 6.8.10.1.13 An assessment of the effects of the proposed withdrawal, transfer, and use on the environment in the vicinity of the proposed withdrawal and in the vicinity of the proposed use; and
- 6.8.10.1.14 Any other information the applicant deems relevant to the District's criteria for approval of the proposed withdrawal, transfer, and use.

An incomplete application shall be returned to the applicant for corrective action. If a properly completed application is not returned within sixty (60) days thereafter, the application shall be denied without prejudice.

6.8.10.2 Application Fee - In accordance with Neb. Rev. Stat. § 46-691.03, an application for a permit for the withdrawal, transport, and use of ground water off the overlying land to augment water supplies in any Nebraska wetland or natural stream for the purpose of benefiting fish or wildlife or for producing other environmental or recreational benefits shall be accompanied by a non-refundable fee of fifty dollars (\$50) payable to the District. No fee shall be required for the filing of an application for any other proposed withdrawal, transfer, and use.

6.8.10.3 Public Comment on Applications - Prior to taking action on an application subject to Neb. Rev. Stat. § 46-691.03, the District shall provide an opportunity for public comment on such application at a regular or special Board meeting for which advance published notice of the meeting and the agenda therefore have been given consistent with Neb. Rev. Stat. § 84-1411.

6.8.10.4 Additional Information Requested - Prior to taking action on any application for a permit governed by Rule 6.8, the District may request the applicant to provide additional information to support the application. Failure of the applicant to provide the requested information may be grounds for denying the permit.

6.8.10.5 Approval of Transfers - In accordance with Neb. Rev. Stat. § 46-739(k) the District shall deny or condition the approval of any such transfer when and to the extent such action is necessary to:

- 6.8.10.5.1 Ensure the consistency of the transfer with the purpose or purposes for which the District's Management Area was designated;
- 6.8.10.5.2 Prevent adverse effects on other ground water users or on surface water appropriators;
- 6.8.10.5.3 Prevent adverse effects on the state's ability to comply with an interstate compact or decree or to fulfill the provisions of any other formal state contract or agreement; and
- 6.8.10.5.4 Otherwise protect the public interest and prevent detriment to the public welfare.

6.8.10.6 District Considerations Relative to Public Interest and Public Welfare - When determining whether it would be in the public interest or detrimental to the public welfare to approve an application for a withdrawal and transfer subject to Rules 6.8.1, 6.8.3, 6.8.4, 6.8.5, 6.8.6, 6.8.7.2, and 6.8.8.2, the District shall consider the following:

- 6.8.10.6.1 Whether the proposed use is a beneficial use of ground water;
- 6.8.10.6.2 The availability to the applicant of alternative sources of surface water or ground water for the proposed withdrawal, transport, and use;
- 6.8.10.6.3 Any negative effect of the proposed withdrawal, transfer, and use on ground water or surface water supplies needed to meet reasonable future demands for water within the state;
- 6.8.10.6.4 Any adverse environmental impacts;
- 6.8.10.6.5 The cumulative effects of the proposed withdrawal, transfer and use relative to the matters listed in 6.8.10.6.1 to 6.8.10.6.4;
- 6.8.10.6.6 Whether the proposed withdrawal, transfer, and use is consistent with the integrated management plan;
- 6.8.10.6.7 If the ground water will be transferred to and used in any other Natural Resources District, whether that NRD has approved such transfer and use and whether such transfer and use would be consistent with the rules and regulations of such other NRD; and
- 6.8.10.6.8 Any other factors, which the District deems relevant to protect the public interest and prevent detriment to the public welfare.

6.8.10.7 In making its decisions regarding transfer applications, the Board may consider relevant information, including, but not limited to:

- 6.8.10.7.1 Information obtained through using best available scientific information including, but not limited to, COHYST modeling efforts;
- 6.8.10.7.2 The trend of change in the depth of the water level in an aquifer over time, obtained from District records;
- 6.8.10.7.3 Other transfers into the area in proximity to the impacted well;
- 6.8.10.7.4 The total usage in proximity to the impacted well; and
- 6.8.10.7.5 Other factors that would increase the rate of consumptive use in the area of the impacted well.

6.8.10.8 Conditions on Permits Issued - All permits issued by the District for transfers subject to Rules 6.8.1, 6.8.3, 6.8.4, 6.8.5, 6.8.6, 6.8.7.2, and 6.8.8.2 shall be conditioned on:

- 6.8.10.8.1 The applicant's installation and maintenance of a flow meter on the well or wells that will be used for withdrawal;
- 6.8.10.8.2 The applicant's submission of an annual report concerning the total volume of water pumped from said well or wells in the preceding year;
- 6.8.10.8.3 Compliance with all applicable statutes and rules and regulations, including any statutes or rules and regulations adopted after the District's approval of the permit; and
- 6.8.10.8.4 The District shall otherwise condition the approval of any withdrawal and transfer of ground water off the overlying land as is necessary to ensure that the withdrawal and transfer is and continues to be consistent with the matters listed in Rule 6.8.10.5

6.9 Pooling

6.9.1 Pooling arrangements for allocations and/or certified irrigated acres may only be approved if the following conditions are met: 1) all such pooling arrangements must be within county lines and within that portion of the allocation subarea; 2) no such pooling arrangements shall be allowed between allocation subareas; and 3) all such pooling arrangements must be approved by the Board and are subject to conditions imposed by the Board. Allocation subareas and county lines are shown on the attached map (Appendix C).

6.9.2 Pooling arrangements of certified irrigated acres are prohibited during the first three (3) complete irrigation seasons following installation of a flow meter on the affected well, and initiation of an allocation system pursuant to these rules and regulations, unless the Board approves a variance.

6.9.3 Before the Board may approve a pooling arrangement, at least sixty percent (60%) or more of the allocation shall have been used during the previous allocation period.

6.9.4 An application for a pooling arrangement shall be in writing and contain the signatures of every person having an interest in such arrangement.

6.9.5 An application for a pooling arrangement shall be submitted on or before January 30, and once approved will be effective for the remainder of the then current allocation period.

6.9.6 An application for a pooling arrangement shall include, but not be limited to the following:

6.9.6.1 Application form (available from the District);

6.9.6.2 Pooling arrangement in writing;

6.9.6.3 Proof of ownership from tax assessor for each certified irrigated tract to be involved in the pooling arrangement; and

6.9.6.4 Aerial photograph showing tracts to be involved in the pooling arrangement.

6.9.7 Pooling arrangements, which the Board has previously approved, may be renewed by filing an application with the District for subsequent allocation periods.

6.9.8 The unused portion of any allocation for certified irrigated tracts subject to a pooling arrangement shall remain with each tract whenever a pooling arrangement is terminated. Upon the written consent of all signatories to a pooling arrangement to terminate the pooling arrangement, the Board shall prorate any remaining allocation among the members.

6.9.9 In no event may a pooling arrangement result in more ground water being withdrawn than a ground water user's total allocation.

6.9.10 The Board may condition its approval or deny any pooling arrangement to the extent necessary to: 1) ensure the consistency of the arrangement with the purpose or purposes for which the management area or subarea was designated, 2) prevent adverse effects on other ground water users or on surface water appropriators, 3) prevent adverse effects on the state's ability to comply with an interstate compact or decree or to fulfill the provisions of any other formal state contract or agreement, and 4) otherwise protect the public interest and prevent detriment to the public welfare.

6.9.11 A pooling arrangement shall not be approved unless it has one or more certified irrigated tracts with unused allocations or carryforward.

6.9.12 A newly purchased certified irrigated tract may continue in an existing pooling arrangement provided all persons in such pooling arrangement agree in writing.

6.9.13 Nothing contained in this Rule 6.9 is intended or shall be construed as 1) permitting the development of any new well, or 2) prohibiting a person from pursuing a variance from these rules and regulations, pursuant to Rule 7 of these rules and regulations.

7. VARIANCES

7.1 Unless otherwise provided by law or these rules and regulations, the Board may grant a variance from these rules and regulations upon good cause shown.

7.2 Expedited Variances

7.2.1 If a landowner desires to modify certified irrigated acres and/or tract(s), the transfer of those certified irrigated acres and/or tract(s) from land that is owned by him/her to other land that is owned by him/her which is within the same and/or adjacent section(s) and within the same county boundary and subarea division will not be approved unless the landowner applies for and is granted an expedited variance from the District. The Board authorizes the Staff to make the determination whether or not to approve, approve with conditions, or deny the expedited variance application. The expedited variance request cannot result in an increase in irrigated acres. If the number of acres from the original tract(s) is not sufficient to transfer to the modified tract(s), then an offset of the remaining amount of irrigated acres will be required. In such case, the expedited variance request will have to be processed through the Variance Advisory Group.

7.2.1.1 If at any point in the expedited variance application review process, the Staff determines that it is necessary for the Board, with the assistance of the Variance Advisory Group, to make the final decision on whether to approve, approve with conditions, or deny the expedited variance application, the Staff will present their recommendation on the application to the Group and the Board, with the final decision being made by the Board.

7.2.2 If the landowner and/or operator of certified irrigated acres/tracts changes, the Board authorizes the Staff to modify the certification record for the acres/tracts to reflect the change(s). The current landowner must notify the District within thirty (30) days of a change to a new landowner and/or operator of certified irrigated acres/tracts.

7.2.3 In cases where an irrigated tract owned by the same landowner crosses county lines but not subarea boundaries, the Board authorizes the Staff to approve a pooling arrangement for that tract.

APPENDIX A

GWMA Designations and Delineation

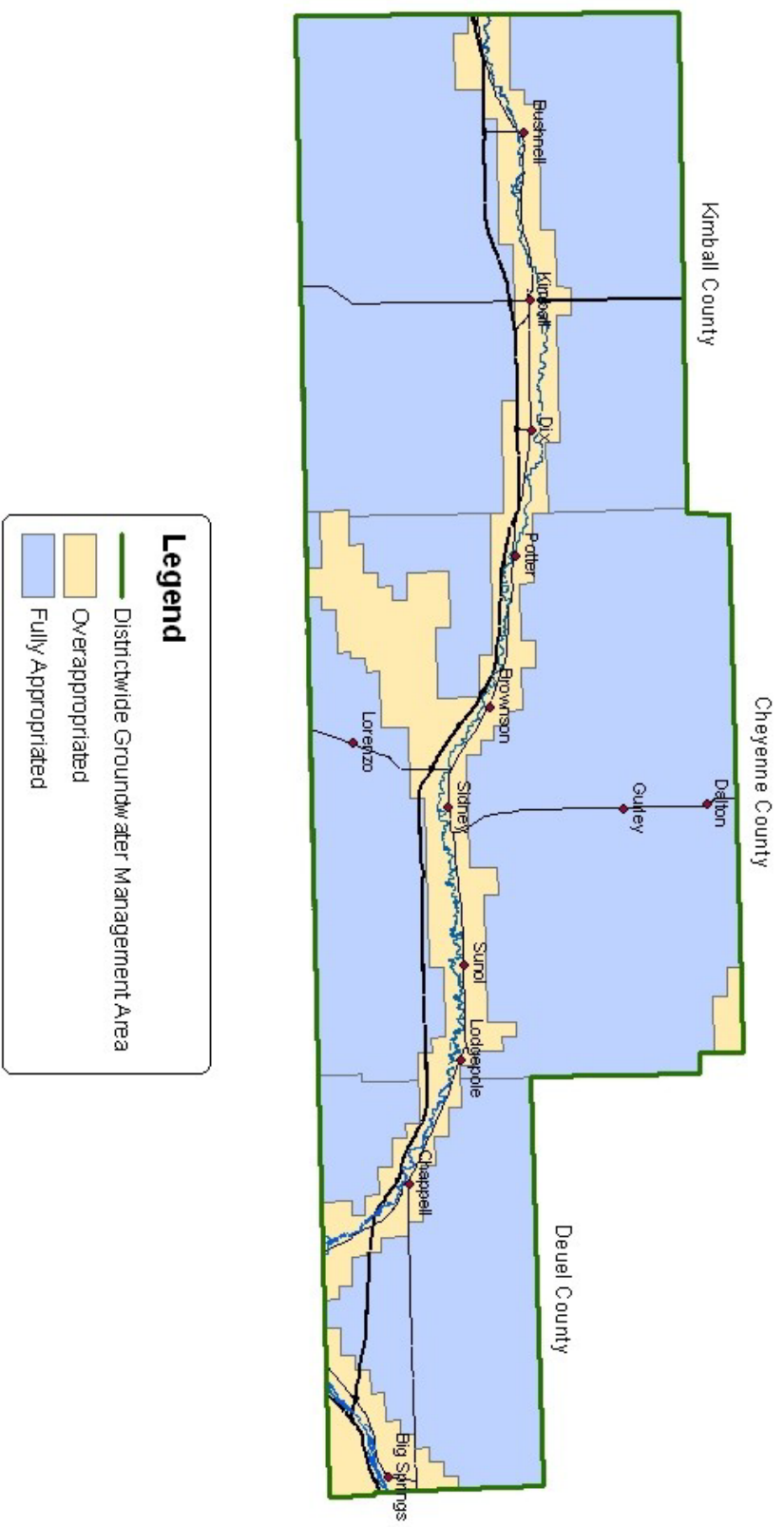
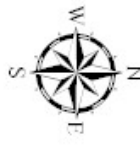
The South Platte Natural Resources District Districtwide Ground Water Management Area is delineated to include all lands within the political boundaries of the South Platte NRD. A map of the area is included in Appendix B. This area includes all lands within the counties of Kimball, Cheyenne, and Deuel.

Stratigraphic Extent:

The Management Area includes all geologic strata within the boundaries, beginning with the sediments from ground surface downward through all aquifer units supplying ground water for beneficial purposes. This includes Quaternary and Tertiary deposits as defined by the CSD-UNL.

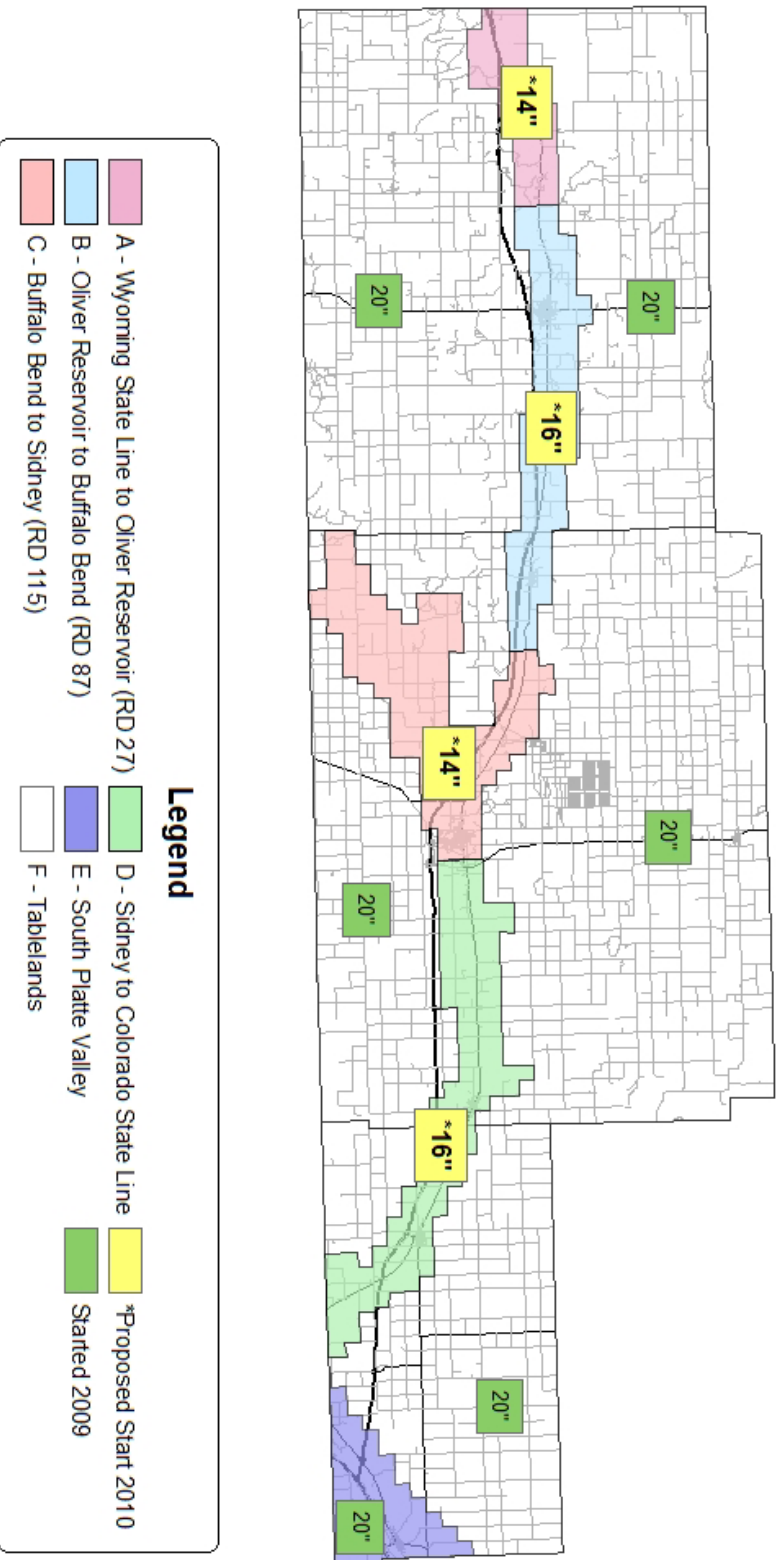
SOUTH PLATTE NATURAL RESOURCES DISTRICT

Districtwide Groundwater Management Area



South Platte Natural Resources District

Allocation Subareas, Base Allocations, *Proposed
Base Allocations & Timeframe for Implementation



05/05/09