RULES and REGULATIONS

Ground Water Management Area

Established July 1, 1998
Effective February 1, 2008

And the

INTEGRATED MANAGEMENT PLAN

For the
Middle Republican
Natural Resources District
And The
Nebraska Department of
Natural Resources

Established January 1, 2005
Effective February 8, 2008

Exhibit
Nebraska
17
Patterson Reporting & Video

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Ground Water Management Area

Adopted May 18, 1998	
Established July 1, 1998	
Revised July 1, 1999	
Revised July 1, 2000	
Revised November 17, 2003	
Revised January 1, 2005	Hearing October 6, 2004
Revised October 3, 2006	Hearing June, 13, 2006
Revised December 1, 2006	Hearing September 12, 2006
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Integrated Management Plan

Adopted November 9, 2004	
Established January 1, 2005	Hearing October 6, 2004
Revised February 8, 2008	Hearing January 8, 2008

PREFACE

Legislative Intent.

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

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

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

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

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

Legislative Findings

The Legislature finds that:

(a)(1) The management, conservation, and beneficial use of hydrologically connected ground water and surface water are essential to the continued economic prosperity and well-being of the state, including the present and future development of agriculture in the state;

(2) Hydrologically connected ground water and surface water may need to be managed differently from unconnected ground water and surface water in order to permit

equity among water users and to optimize the beneficial use of interrelated ground water and surface water supplies;

(3) Natural resources districts already have significant legal authority to regulate activities which contribute to declines in ground water levels and to nonpoint source contamination of ground water and are the preferred entities to regulate, through ground water management areas, ground water related activities which are contributing to or are, in the reasonably foreseeable future, likely to contribute to conflicts between ground water users and surface water appropriators or which may be necessary in order to resolve disputes over interstate compacts or decrees, or to carry out the provisions of other formal state contracts or agreements;

(4) The Department of Natural Resources is responsible for regulation of surface water resources and local surface water project sponsors are responsible for much of the structured irrigation utilizing surface water supplies, and these entities should be responsible for regulation of surface water related activities which contribute to such conflicts or provide opportunities for such dispute resolution;

(5) The department, following review and concurrence of need by the Interrelated Water Review Committee of the Nebraska Natural Resources Commission, should also be given authority to regulate ground water related activities to mitigate or eliminate disputes over interstate compacts or decrees or difficulties in carrying out the provisions of other formal state contracts or agreements if natural resources districts do not utilize their ground water management authority in a reasonable manner to prevent or minimize such disputes or difficulties; and

(6) All involved natural resources districts, the department, and surface water project sponsors should cooperate and collaborate on the identification and implementation of management solutions to such conflicts or provide opportunities for mitigation or elimination of such disputes or difficulties

(b)(1) The levels of nitrate nitrogen and other contaminants in ground water in certain areas of the state are increasing;

(2) Long-term solutions should be implemented and efforts should be made to prevent the levels of ground water contaminants from becoming too high and to reduce high levels sufficiently to eliminate health hazards;

(3) Agriculture has been very productive and should continue to be an important industry to the State of Nebraska;

(4) Natural resources districts have the legal authority to regulate certain activities and, as local entities, are the preferred regulators of activities which may contribute to ground water contamination in both urban and rural areas;

(5) The Department of Environmental Quality should be given authority to regulate sources of contamination when necessary to prevent serious deterioration of ground water quality;

(6) The powers given to districts and the Department of Environmental Quality should be used to stabilize, reduce, and prevent the increase or spread of ground water contamination; and

(7) There is a need to provide for the orderly management of ground water quality in areas where available data, evidence, and other information indicate that present or potential ground water conditions require the designation of such areas as management areas.

AUTHORITY - These rules and regulations are adopted pursuant to the authority granted in the Nebraska Ground Water Management and Protection Act.

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

CHAPTER 1 – MANAGEMENT AREA

RULE 1-1 MANAGEMENT AREA DESIGNATION AND BOUNDARIES

1-1 A sub area of the management area designated on July 1, 1998 is hereby designated for purposes of implementing the Integrated Management Plan. The geographic and stratigraphic boundaries of the sub area coincide with the existing geographic and stratigraphic boundaries of the existing management area designated on July 1, 1998 (such sub area for integrated management will be referred to as a "management area"). The geographic boundary of the management area is the boundary of the Middle Republican Natural Resources District. The stratigraphic boundary of the management area is from the land surface to the base of the underlying sand and gravel layers that contain the water bearing material. The base of the sand and gravel layers rest on impervious layers of Niobrara Chalk, Pierre Shale or formations from the White River Group. (see Map 1)

1-2 A list of legal descriptions identifying the Quick Response and Platte sub areas is on permanent file at the office in Curtis and is available for inspection during normal business hours. (10/03/2006)

CHAPTER 2 – GENERAL PROVISIONS

RULE 2-1 VARIANCES

2-1.1 The Board may grant variances from the strict application of these rules and regulations upon good cause shown.

2-1.2 All requests for a variance shall be made on forms provided by the District and will be acted upon at a formal adjudicatory hearing before the Board. This hearing will be advertised in the legal newspaper of the District and all known involved parties will be advised of the hearing. The well owner or his or her representative shall be present at the hearing. With prior notification to the District, written testimony may be provided if the well owner cannot be present.

2-1.3 The Board, at its discretion, may designate conditions under which specific requests for a variance may be approved by methods other than a formal adjudicatory hearing. A variance granted under these conditions shall be referred to as an expedited variance.

RULE 2-2 EXPEDITED VARIANCE

2-2.1 The Board hereby approves the following expedited variances and allows approval without Board consideration:

1. Alternative methods for metering of wells that pump less than two hundred and fifty (250) gallons per minute.
2. Exempt unused and inactive status wells from the metering requirement until well is placed into active status or is otherwise used.
3. Approval of permits to construct a contamination / remediation well for the purpose of withdrawal or treatment of contaminated water, or for the introduction or removal of air, water or chemicals. The expedited variance request shall include written approval of the state agency with supervisory responsibility for the planned project.
4. Approval of permits to construct a monitoring / observation well for the purpose of withdrawal of water or the observation of water levels during aquifer testing, collection of water quality samples and providing hydrologic information. A monitoring / observation well shall not have a permanent pump installed. The expedited variance request shall include the planned disposition of the well after its intended use is completed.

2-2.2 All requests for an expedited variance shall be made on forms provided by the District.

2-2.3 Approval, approval with conditions or denial of a properly completed request for an expedited variance will be made within thirty (30) days of the receipt of the completed variance.

RULE 2-3 SEVERABILITY

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

RULE 2-4 VIOLATIONS AND ENFORCEMENT

These rules and regulations shall be enforced by the District through the use of cease and desist orders issued in accordance with the "Rules and Regulations for the Enforcement of the Nebraska Ground Water Management and Protection Act", adopted on March 27, 2000, and section II, subsection E, Rule 4 of the "General Policy Statement".

RULE 2-5 PENALTIES

Any person who violates any cease and desist order issued by the District pursuant to section 46-707 or any controls or rules or regulations adopted by the NRD relating to the management area shall be subject to penalties imposed through the controls adopted by the District including, but not limited to, having any allocation of water granted or irrigated acres certified by the District reduced

in whole or in part. Notice and hearing shall be provided to such person before the District takes any action. Specific penalties may be identified in rule and regulation for some violations. Any person who violates a cease and desist order issued by the District pursuant to section 46-707 shall be subject to a civil penalty assessed pursuant to section 46-745, Reissue Revised Statutes of Nebraska.

RULE 2-6 ACCESS

2-6.1 The District shall have the power and authority to enter upon the land, after notification to the landowner, for any and all reasons relative to the administration of the ground water management area, and provisions of the Ground Water Management and Protection Act. This entry shall not be considered trespass.

2-6.2 Notification may be accomplished by regular mail, certified mail or by oral communication.

2-6.3 The District hereby notifies all operators of its intent to enter onto property, to verify the installation of flow meters or other devices and to read or verify the readings of flow meters or other devices used to measure the quantity of ground water used for irrigation. This process will take place between October 1 and December 31 each year.

CHAPTER 3 – DEFINITIONS

RULE 3-1 DEFINITIONS

3-1.1 Abandoned Well: means any water well, the use of which has been accomplished or permanently discontinued, which has been decommissioned as described in the rules and regulations of the Nebraska Department of Health and Human Services Regulation and Licensure, and a notice of abandonment has been filed with the Department of Natural Resources.

3-1.2 Act: The Nebraska Ground Water Management and Protection Act.

3-1.3 Additional Water Administration Year: When water is needed for diversion at Guide Rock and the projected or actual irrigation supply is less than 130,000 acre feet of storage available for use in Harlan County Lake.

3-1.4 Allocation: As it relates to water use for irrigation purposes, means the allotment of a specified total number of acre-inches of irrigation water per certified irrigated acre per year or an average number of acre-inches of irrigation water per certified irrigated acre over any reasonable period of time. As it relates to other purposes, the allotment of a determined quantity of ground water.

3-1.5 Animal Unit: A unit of measurement for any livestock operation. For each type of livestock identified below, the number of animal units shall be the number of livestock in the livestock operation times the multiplier following that livestock type.

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

3-1.6 Backup Well: Used in conjunction with a livestock operation well or an industrial well. A backup well cannot be used at the same time as the primary well or wells. A backup well is not subject to the increased spacing requirements of the District.

3-1.7 Base Allocation: This amount, in acre-inches, is derived from dividing the allocation by the base allocation period.

3-1.8 Base Allocation Period: This is the number of years that an allocation can be used.

3-1.9 Board: The elected Board of Directors of the Middle Republican Natural Resources District.

3-1.10 Bonus Inches: An additional allocation, granted by the approval of the Board, only after yearly compliance following the 2006 crop year. (11/13/07)

3-1.11 Certification: The process whereby the annual use of ground water for a regulated well is reported to and verified by the District.

3-1.12 Certified Use: any use of ground water in accordance with Rule 4-6.

3-1.13 Certified Irrigated Acre: Any acre that is certified as such pursuant to the rules and regulations of the District and that is actually capable of being supplied water through irrigation works, mechanisms or facilities existing at the time of allocation.

3-1.14 Confined Livestock Operation: shall mean totally roofed buildings, which may be open sided or completely enclosed on the sides, wherein animals or poultry are housed over solid concrete or dirt floors or slatted floors over pits or manure collection areas in pens, stalls or cages, with or without bedding materials and mechanical ventilations.

3-1.15 Consecutive Water Short Years: Shall mean the need for additional action if a water short year has been designated for at least two consecutive years and Nebraska was not within its yearly allocation during those years. (11/13/07)

3-1.16 Consumptive Use: is that amount of water that is consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use are lawfully made.

3-1.17 Critical Unit(s): An area(s) designated by the District where circumstances require additional controls.

3-1.18 Cumulative Allocation : Base allocation times allocation period (11/13/07)

3-1.19 Dewatering Well: shall mean a water well constructed for the purpose of temporarily lowering the ground water surface elevation.

3-1.20 District, NRD, MRNRD: The Middle Republican Natural Resources District.

3-1.21 Flow Meter: a device, approved by the District, to measure the quantity of ground water pumped, withdrawn, or taken from a water well.

3-1.22 Good Cause Shown: shall mean a reasonable justification for granting a variance to consumptively use water that would otherwise be prohibited by rule or regulation and which the District reasonably and in good faith believes will provide an economic, environmental, social or public health and safety benefit that is equal to or greater than the benefit resulting from the prohibition from which a variance is sought.

3-1.23 Ground Water: shall mean that water which occurs in or moves, seeps, filters, or percolates through the ground under the surface of the land.

3-1.24 Historic Consumptive Use: is that amount of water that has previously been consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use was lawfully made.

3-1.25 History of Use: as used in these rules shall mean the exercise of a certified use in four (4) of the previous six (6) years.

3-1.26 Illegal Water Well: (a) any water well operated or constructed without or in violation of a permit required by the Act, (b) any water well not in compliance with rules and regulations adopted and promulgated pursuant to the Act, (c) any water well not properly registered in accordance with sections 46-602 to 46-604, (d) any water well not in compliance with any other applicable laws of the State of Nebraska or with rules and regulations adopted and promulgated pursuant to such laws.

3-1.27 Inactive Status Well: shall mean a water well that is not currently in use, but is in a good state of repair and for which the owner has provided evidence of intent for future use by maintaining the water well in a manner which meets the following requirements: (1) the water well does not allow impairment of the water quality in the water well or of the ground water encountered by the water well; (2) the top of the water well or water well casing has a water-tight welded or threaded cover or some other water-tight means to prevent its removal without the use of equipment or tools to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes or contaminants into the water well; and (3) the water well is marked so as to be easily visible and located and is labeled or otherwise marked 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. An inactive status water well shall be registered as such in the well registration records of the Nebraska Department of Natural Resources.

3-1.28 Incentive Program: shall mean a program that may require agreements or covenants concerning the use of land or water as necessary to produce the benefits for which the program is established.

3-1.29 Industrial Well: shall mean a water well the purpose of which includes but is not limited to; manufacturing, commercial and power generation uses of water. Commercial includes, but is not limited to, maintenance of the turf of a golf course.

3-1.30 Late Permit: shall mean a permit applied for after construction has commenced on a regulated water well pursuant to section 46-735.

3-1.31 Livestock Operation: shall mean the feeding or holding of livestock in buildings, lots or pens which are not used for growing of crops or vegetation, but does not include the holding of cattle in calving operations for less than ninety (90) days per year.

3-1.32 Livestock Operation Well: A regulated well providing for the watering of animals in a "livestock operation" or "confined livestock operation" and for which a livestock waste control facility permitted by the Nebraska Department of Environmental Quality is required.

3-1.33 Livestock Well: A water well not classified as a livestock operation well but which is used for the watering of (1) livestock, poultry, farm and domestic animals used in operating a farm or (2) domestic livestock as related to normal farm and ranch operations or (3) range livestock or stock use on a farm or ranch.

3-1.34 Operator: The person who controls the day-to-day operation of the water well.

3-1.35 Permit to Construct a Well: shall mean a document that must be obtained from the District in accordance with Rule 4-2 before construction of a regulated well water well may be commenced in the management area pursuant to section 46-735.

3-1.36 Person: A natural person, a partnership, a limited liability company, an association, a corporation, a municipality, an irrigation district, an agency or a political subdivision of the state, or a department, an agency, or a bureau of the United States.

3-1.37 Pooling: shall mean the common management of all or part of the certified acres and the associated allocation by two or more persons. (11/13/07)

3-1.38 Platte Sub Area: That portion of the Middle Republican NRD that is located outside the boundaries of the Republican River Basin as delineated for the Republican River Compact.

3-1.39 Primary Well: when used with regard to livestock operation or industrial wells, shall mean the well or wells used for the certified use on a daily or other routine basis.

3-1.40 Public Water System: a system for providing the public with water for human consumption, as further defined in Title 179 Chapter 2.

3-1.41 Quick Response Sub Area: That area included in the area delineated by the Department of Natural Resources and shown on Map 1.

3-1.42 Quick Response Wells: Those wells located in or serving acres in the Quick Response Sub Area.

3-1.43 Reduction of Acres: A uniform percentage reduction of each landowners irrigated acres. Such uniform reduction may be adjusted for each

landowner based upon crops grown on his or her land to reflect the varying consumptive requirements between crops.

3-1.44 Regulated Well: A water well designed and constructed to pump more than fifty (50) gallons per minute. A series of water wells, with a combined discharge of more than fifty (50) gallons per minute, of which the water is commingled, combined, clustered or joined as a single unit for a single purpose shall be considered as one regulated well. (12/01/2006)

3-1.45 Replacement Well: In accordance with Nebraska Statute NRRS 46-602(2)(a) through 46-602(2)(c). (11/13/07)

3-1.46 Reserve: That part of an allocation that is unused during the base allocation period.

3-1.47 Supplemental Well: A regulated well that provides supplemental ground water to acres that are normally irrigated by surface water. Annual use is not a requirement to be considered a supplemental well.

3-1.48 Transfer Permit: shall mean a document that must be obtained from the District in accordance with Rule 5 whereby the point of use, type of use or rules governing the use of ground water is exchanged or moved.

3-1.49 Test Hole: shall mean a hole designed solely for the purpose of obtaining information on hydrologic or geologic conditions.

3-1.50 Unregulated Well: a water well designed and constructed to pump fifty (50) gallons per minute or less and is not commingled, combined, clustered or joined with other water wells.

3-1.51 Unused / Seldom Used Well: a water well that has not been placed in inactive status but is used less than one (1) year in three (3).

3-1.52 Upland Sub Area: That area of the District not delineated as the Quick Response Sub Area or the Platte Sub Area.

3-1.53 Variance: approval to act in a manner contrary to existing rule or regulation from a governing body whose rule or regulation is otherwise applicable.

3-1.54 Water Short Year Administration: will be in effect in those years in which the projected or actual irrigation supply is less than 119,000 acre feet of storage available for use from Harlan County Lake.

3-1.55 Water Well: In accordance with Nebraska Statute 46-601.01. (11/13/07)

3-1.56 Wellhead Protection Area: A delineated area around a public water supply well or wells, used for human needs, representing the thresholds based on time of travel of ground water toward the public water supply well or wells.

CHAPTER 4 – GENERAL MANAGEMENT

RULE 4-1 MORATORIUM

4-1.1 The District finds that the use of hydrologically connected ground water and surface water resources is contributing to conflicts between ground water and surface water users and to disputes over the Republican River Compact. The District hereby closes all of the management area, as defined in Rule 1-1, to the issuance of new permits for regulated wells except as provided in 4-1.2.

4-1.2 Replacement wells and backup wells, as defined in 3-1.6, are not subject to the moratorium. (11/17/07)

RULE 4-2 PERMIT TO CONSTRUCT A WATER WELL

4-2.1 Except as provided in Rule 4-2.3 any person who intends to construct a regulated water well on land in the management area which he or she owns or controls shall, before commencing construction, apply with the District for a permit on a form provided by the District. The District shall review such applications and issue the approved permit, with or without conditions, or deny the permit within thirty (30) days after the application is properly prepared and received. An incomplete or defective application shall be returned for correction. If correction is not made within sixty (60) days the application shall be cancelled.

4-2.2 Applications for a permit to construct a water well that require consideration of a variance request shall not be deemed as properly filed and complete until such time as the Board has acted to approve the variance request.

4-2.3 Exceptions. No permit shall be required for:

- 4-2.3.1 Test holes
- 4-2.3.2 Dewatering wells with an intended use of ninety (90) days or less.
- 4-2.3.3 A single water well designed and constructed to pump fifty (50) gallons per minute or less.

4-2.4 A permit is required for a water well designed and constructed to pump fifty (50) gallons per minute or less if such water is commingled, combined, clustered, or joined with any other water well or wells or other water source, other than a water source used to water range livestock. Such wells shall be considered one (1) well and the combined capacity shall be used as the rated capacity.

4-2.5 A person shall apply for a permit before he or she modifies a water well, for which a permit was not required when the well was constructed, into one for which a permit would otherwise by required.

4-2.6 The application shall be accompanied by a $50.00 filing fee payable to the District and shall contain:

- 4-2.6.1 The name and post office address of the well owner,
- 4-2.6.2 The nature of the proposed use,

4-2.6.3 The intended location of the proposed water well or other means of obtaining ground water,

4-2.6.4 The intended size, type and description of the proposed water well and the estimated depth, if known,

4-2.6.5 The estimated capacity in gallons per minute,

4-2.6.6 The acreage and location by legal description of the land involved if the intended use is for irrigation,

4-2.6.7 A description of the proposed use if other than irrigation,

4-2.6.8 The registration number of the well being replaced, if applicable,

4-2.6.9 The certified use of the well being replaced, if applicable,

4-2.6.10 The historic consumptive use of the well being replaced, if applicable, and

4-2.6.11 Such other information as the District may require.

4-2.7 Any person who has failed or in the future fails to obtain a permit before construction is commenced shall make application for a late permit on forms provided by the District.

4-2.8 The application for a late permit shall be accompanied by a $250.00 fee payable to the District and shall contain the same information required in Rule 4-2.6.

4-2.9 An application for a new regulated well with an intended consumptive use of more than three hundred (300) acre feet over a twelve (12) month period requires, in addition to the information required by 4-2.6, the following information:

4-2.9.1 The availability to the applicant of alternative sources of surface or ground water,

4-2.9.2 Any negative effect of the proposed withdrawal on ground water and surface water supplies needed to meet present or reasonable future demands for water in the intended area of withdrawal within the state, to comply with any interstate compact or decree, or to fulfill the provisions of any other formal state contract or agreement,

4-2.9.3 Any adverse environmental effect of the proposed withdrawal, and

4-2.9.4 The cumulative effect of the proposed withdrawal relative to the matters listed in 4-2.9.1 through 4-2.9.3

4-2.10 The application for a permit shall be denied if (1) the location or operation of the proposed water well or other work would conflict with any regulations or controls adopted by the District, (2) the proposed use would not be a beneficial use, or (3) in the case of a late permit only, that the applicant did not act in good faith in failing to obtain a timely permit.

4-2.11 No refund of any application fees shall be made regardless of whether the permit is issued, canceled, or denied.

4-2.12 The issuance, by the District, of a permit or the registration of a water well with the Nebraska Department of Natural Resources shall not vest in any person the right to violate any District rule, regulation, or control in effect

on the date of issuance of the permit or the registration of the water well or to violate any rule, regulation, or control properly adopted after such date.

4-2.13 The applicant shall commence construction as soon as possible after the date of approval and shall complete construction and equip the water well prior to the date specified in the conditions of approval, which shall not be more than one (1) year from the date of approval, unless it is clearly demonstrated in the application that one (1) year is an insufficient period of time for such construction. Failure to complete the project under the terms of the permit may result in the withdrawal of the permit by the District.

RULE 4-3 WELL SPACING

4-3.1 No regulated well except a backup well shall be constructed upon any land in this District within one thousand three hundred and twenty (1320) feet of any other registered regulated well, regardless of ownership except;

4-3.1.1 Any irrigation water well that replaces an irrigation water well which was drilled prior to September 20th, 1957, and which is less than six hundred (600) feet from a registered irrigation well may be located closer than one thousand three hundred and twenty (1320) feet from another regulated well if it is drilled within fifty (50) feet of the water well being replaced.

4-3.1.2 A replacement well may be constructed less than one thousand three hundred and twenty (1320) feet from another registered regulated water well, if it is constructed within one hundred (100) feet of the water well it replaces or is relocated no closer than the well it replaces to other wells and if such replaced water well was, when constructed, in compliance with all applicable laws, rules and regulations.

4-3.2 The well spacing required by Rule 4-3.1 shall also apply to the distance between a proposed new regulated well and an unregistered regulated water well but only for a period of sixty (60) days to allow for registration of such unregistered water well.

Rule 4-4 FLOW METERS

4-4.1 Flow meters meeting accuracy specifications established in Rule 4-4.2 shall be installed on all regulated wells by the end of the year 2004 except,

4-4.1.1 For a well with a pumping capacity of less than two hundred and fifty (250) gallons per minute, an alternative measuring device or method, approved by the District, with an accuracy of plus or minus five (5) percent of the actual water flow, may be used.

4-4.1.2 Before any inactive wells are placed in service, a flow meter shall be installed, the District shall be notified of the well's status change, and the status of the well in the well registration records of the Department of Natural Resources shall be updated to

reflect its active status. No such well shall be operated thereafter without a properly installed and operational flow meter.

4-4.2 All meters shall be tested for accuracy using recognized industry testing methods and certified by the manufacturer according to those standards. At any rate of flow within the normal flow limits, the meter, except as noted in Rule 4-4.1.1, shall register not less than ninety eight (98) percent or more than one hundred and two (102) percent of the water actually passing through the meter. All meters shall have a register or totalizer and shall read in U. S. gallons, acre-feet or acre-inches.

4-4.3 Installation – The operator shall, on forms provided by the District, report the location, by legal description, and certify the proper installation of flow meters. The District may, at a time of its own choosing, verify the location and proper installation of flow meters. The proper installation of a meter is such that it meets the manufacturer's specifications and/or more restrictive specifications developed by the District.

4-4.3.1 In no case may a meter be installed with less than five (5) unobstructed pipe diameters upstream of the meter or less than one (1) unobstructed pipe diameter downstream of the meter.

4-4.3.2 If the meter is installed downstream of a mainline check valve, there must be at least ten (10) pipe diameters upstream of the meter. If there are not at least ten (10) pipe diameters upstream of the meter, straightening vanes must be installed.

4-4.3.3 Meters must be located so as to prevent damage to the meter from excessive vibration.

4-4.3.4 Meters must be installed so that the removal of the meter for service or maintenance can be performed with the use of normal tools and does not require excessive or unusual removal of hardware or other appurtenances.

4-4.3.5 The District may establish a method by which the installed meter is tagged, sealed, marked or otherwise protected from tampering.

4-4.3.6 New installations or changes to the location of currently installed meters shall be permanent and shall be mounted no higher than six feet above ground level. (10/3/2006)

4-4.3.7 Electronic meters or any meter with a digital readout must have an uninterruptible power supply. (10/03/2006)

4-4.4 Improperly Installed Meters – The installation of meters that do not meet manufacturers' or District standards must be corrected. Failure to provide for proper installation will result in the loss of allocation for the next crop year.

4-4.5 Inoperative Meters – Landowners shall notify the District of an inoperative meter within one (1) working day from the time the defect is noted. The District will repair or temporarily replace the inoperative meter and charge the well owner for the service. Failure to report inoperative meters will result in the loss of allocation for the next crop year.

4-4.6 Tampering with an installed flow meter – Following a hearing before the Board, if it is found that tampering so as to affect the accuracy or true use of the meter has occurred, the District shall withhold the allocation for the next crop year and may prorate the allocation for the current year.

4-4.7 Service – It is the responsibility of the operator to provide for service and maintain the flow meter according to either the manufacturer's standards or more restrictive standards developed by the District. The operator may grant permission for this service to be provided by the District, at a cost to the operator. The District may enter onto property to provide this service. This service will be provided in the off-season and will not interfere with the normal operation of the meter or the well.

4-4.8 The District may establish a spot check program to inspect the serviceability and verify use of a meter. The District may correct discrepancies noted at the time of the inspection. Discrepancies that require the repair of a meter may be performed by the District, at a cost to the well owner, with the permission of the well owner.

4-4.9 The district may require that meters that have been repaired two out of the last five years for vibration damage or more frequently to be moved to a location where vibration damage is minimal or modifications are made to the meter register that are more resistant to vibration damage. (10/03/2006)

4-4.10 By the beginning of the 2008 crop year all meters shall be permanently mounted in the irrigation distribution system. (10/03/2006)

4-4.11 Challenges of usage readings require that the landowner provide sufficient evidence to substantiate their claim. For electric wells power records may serve this purpose. (10/03/2006)

RULE 4-5 REPORTS

4-5.1 Each operator of a regulated well, other than an irrigation well, shall report, on forms provided by the District, by January 15 of each year, the total water withdrawn from that well during the preceding calendar year and the nature of the use of that water.

4-5.2 Failure to provide this report shall result in the loss of allocation for the next crop year or current year, in the case of a regulated well other than an irrigation well.

4-5.3 In order to ensure compliance with the Republican River Compact Accounting procedures, additional information may be required in reports from operators. (11/13/07)

RULE 4-6 CERTIFICATION

4-6.1 After June 1, 2004 for irrigation wells, and December 1, 2004 for wells used for other than irrigation purposes, no regulated well shall be operated until its use is certified and approved by the Board pursuant to these rules and regulations.

4-6.2 Any operator aggrieved by a determination of the Board regarding approval of certification of irrigated acres or of non-irrigation uses may request a hearing before the Board for the purpose of reconsidering that

determination. Such request shall be filed on a form provided by the District within thirty (30) days of the Board's action on the certification. Such hearing shall be a formal adjudicatory hearing and shall be conducted in accordance with the District's Rules and Regulations for the Enforcement of the Ground Water Management and Protection Act. The burden of proof shall be on the person requesting the hearing to document that the Board's decision should be modified.

4-6.3 The Board shall review each certification for all uses no less often than every five (5) years. Errors or inconsistencies discovered during that review shall be resolved to the satisfaction of the Board before any new allocation is made to the previously certified uses. Following notice and a hearing, the Board may rescind any previously approved certification and any previously granted allocation to a well for which false or misleading information was used to obtain the certification required by Rule 4-6.5 or 4-6.14.

4-6.4 Any change in farming operation or ownership that would result in a change in the number or location of certified irrigated acres shall be reported to the District no later than December 31 of the calendar year in which the change occurred. Any change in use of a regulated well used for purposes other than irrigation that would result in a change in that well's certification shall be reported to the District no later than December 31 of the calendar year in which the change occurred. The Board may reject such changes if it finds that such changes would cause an increase in Nebraska's consumptive use as calculated pursuant to the Republican River Compact or would have detrimental effects on other ground water users or on surface water appropriators.

IRRIGATION USES

4-6.5 No later than January 1, 2004 each owner or operator of a regulated irrigation well shall certify (1) the well registration number for that well, (2) the number and location of all acres irrigated at least once by that well between January 1, 1993 and December 31, 2002, (3) the maximum number of acres irrigated by that well in any one (1) year within that time period, (4) the number and location of all acres irrigated by that well in 2003. Such certification shall be on forms provided by the District and shall be accompanied by applicable records from the Farm Service Agency and/or the County Assessor and such other information as requested by the District to verify the information certified.

4-6.6 By the beginning of the 2008 crop year all ground water irrigated acres certified with the district must be taxed as irrigated acres by the County Assessor. Acres not assessed as irrigated will not receive an allocation. Certified acres currently enrolled in the Conservation reserve Program may be an exception to this rule. (10/03/2006)

4-6.7 The Board may take action to approve, modify and approve, or reject the certifications provided by owners and/or operators pursuant to Rule 4-6.5.

The number and location of certified irrigated acres, which shall be approved for each such irrigation well, shall be determined at a public meeting of the Board after consideration of the following:

- The information provided on and with the certification filed in accordance with Rule 4-6.5,
- Any water use reports for that well filed in accordance with Rule 4-5,
- U.S.D.A. Farm Service Agency records,
- County Assessor records,
- Aerial photographs, and
- Other information available to and deemed relevant by the Board.

4-6.8 Only those acres that are actually capable of being supplied with ground water through irrigation works, mechanisms or facilities existing at the time of certification may be approved as certified acres by the Board.

4-6.9 An irrigation well constructed before June 12, 2002 but not registered until after December 31, 2003, shall be approved for no more than (1) its proven record of use or (2) one hundred and sixty (160) certified irrigated acres.

4-6.10 Replacement irrigation wells constructed after May 19, 2003 shall be approved for no more certified acres than the certified use for the well being replaced.

4-6.11 After January 1, 2004, with the prior approval of the Board, an irrigation well that was constructed prior to June 12, 2002 but has not yet been used for irrigation, is in inactive status or is unused may be granted certified acres. That approval may be granted only upon the written request of the well owner and when the Board has determined (1) that the well is in compliance with all applicable rules and regulations of the District (2) the location and number of acres proposed to be irrigated by that well in the future will be limited to no more than one hundred and sixty (160) acres, the acres that the well is capable of serving or the certified use being replaced. This certified use includes supplementing existing surface water irrigated acres or replacing the use of active wells on certified irrigated acres.

4-6.12 If certification is not filed pursuant to Rule 4-6.5 to 4-6.10 for an irrigation well constructed prior to January 1, 2004, the well shall be an "illegal water well" as that term is defined in District Rule 3-1.24.

4-6.13 The Board shall not certify any irrigated acres for an illegal water well, as that term is defined in District Rule 3-1.24, and an illegal water well shall receive no future allocation of water until such certification has been filed and until the Board has approved or modified and approved that certification. Certification of acres can be approved for any such well if and when the deficiency that caused that well to be an illegal water well is corrected.

4-6.14 The number of acres that may be certified and approved for a well from which the water is applied to the crop through a sprinkler system may be

up to five (5) percent greater than the actual area planted to crops if there are non-cropped areas under the sprinkler system.

NON-IRRIGATION USES

4-6.15 No later than September 1, 2004, each owner or operator of a regulated well used for purposes other than irrigation shall certify (1) the well registration number for that well, (2) the nature and location of the use of the water withdrawn from that well, (3) the measured or estimated average annual quantity of water withdrawn from that well between January 1, 1993 and December 31, 2002 and a description of the method used to determine that quantity, (4) the measured or estimated maximum quantity withdrawn from that well in any one (1) year during that time period, (5) the measured or estimated quantity of water withdrawn from that well in 2003, (6) if the well was constructed before June 12, 2002 but has not yet been used for its intended purpose, the quantity of water proposed to be withdrawn from that well in the future, (7) if the well is a replacement well constructed after January 1, 2003, the information required by items (1) through (5) above for the well replaced, (8) if the well was constructed after June 12, 2002, the quantity withdrawn in 2003 and the quantity of water proposed to be withdrawn from that well in the future, and (9) if the owner or operator of the well desires that the annual quantity of use to be certified for that well be in excess of the quantity historically withdrawn by that well, the quantity proposed and an explanation why that quantity is necessary to accomplish the purpose for which the well is used. Such certification shall be on forms provided by the District and shall be accompanied by such information as requested by the District to verify the information certified.

4-6.16 No later than November 1, 2004, the Board shall take action to approve, modify and approve, or reject the certifications provided by the owners and/or operators of non-irrigation wells pursuant to Rule 4-6.14. Such action shall be taken after reviewing the information provided by the owner or operator of the well and any other information available to and deemed relevant by the Board. The Board's approval of the certification for such a well shall not, by itself, limit the quantity of water that can be withdrawn by that well in 2005 or any subsequent year. Any such limitations on the quantity that can be withdrawn annually from that well will be imposed through the Board's allocation of water to that well pursuant to the District's rules and regulations. The Board may use the information provided through such certification if and when it determines the amount to be allocated to that well.

4-6.17 Only those non-irrigation uses that are actually capable of being supplied with ground water through works, mechanisms or facilities existing at the time of certification may be approved as certified uses by the Board.

4-6.18 If no certification is filed pursuant to Rule 4-6.14 for a regulated well constructed prior to September 1, 2004, and used for other than irrigation

purposes, that well shall not be used and shall not receive an allocation from the District until such certification has been filed with the District and approved by the Board.

4-6.19 Certification shall not be approved by the Board for any regulated non-irrigation well, which is an "illegal water well" as that term is defined by Rule 3-1.24 of the District's rules and regulations. The Board can approve such certification if and when the deficiency that caused the well to be an illegal water well is corrected.

4-6.20 Certification of use for an inactive status or unused non-irrigation well will be approved only when that well is returned to active status, has been registered as such with the Department of Natural Resources, and is in compliance with all applicable rules and regulations of the District.

RULE 4-7 WATER SHORT YEAR ADMINISTRATION

4-7.1 No later than October 1, 2005 and October 1 of each following year the Department of Natural Resources will notify the District of the potential for Water Short Year administration. Notification of updates to such determinations will be provided monthly, or more often as requested, through the following June 30th at which time the final determination will be made.

4-7.2 Upon receiving notice of the potential designation of a Water Short Year, the District shall provide notice to irrigators of this designation by placing said notice on the District website.

4-7.3 Consecutive Water Short Years may require additional reductions in certified acres or reductions in the base allocation.

4-7.4 Beginning with the 2007 crop year, consecutive Water Short year designations may result in the reduction of the cumulative allocation, for irrigation uses, by one (1) inch for each year remaining in the base allocation period. This reduction shall not apply to a Water Short year in which the State of Nebraska is within its yearly allocation. Producers with certified irrigated acres will be notified of this reduction by notices published in newspapers of general circulation in the district. (11/13/07)

4-7.5 Following the designation of a consecutive Water Short Year, the Board may adopt additional measures as needed to maintain compliance with the Republican River Compact. (11/13/07

4-7.6 Additional measures needed in a Water Short Year may be mitigated, at the discretion of the Board, by the active participation in incentive programs, river flow enhancement projects or other projects designed to reduce consumptive use. (11/13/07)

RULE 4-8 INCENTIVE PROGRAM

4-8.1 Unless permitted by the rules and regulations established by individual incentive programs, no certified acres may be enrolled in incentive programs or special initiatives sponsored by or funded by the District if such certified acres do not have a history of use in four (4) of the previous six (6) years.

4-8.2 These incentive programs may include any Federal, State, or Local programs that have the effect of reducing the MRNRD's overall consumptive use. Subject to State law, the MRNRD may also raise those funds necessary to provide the districts share of payments in incentive programs it utilizes. If sufficient irrigated acres are retired, through the use of incentive programs, above what is needed to meet the requirements of the Republican River Compact, the MRNRD may re-evaluate and alter the allocation previously set per irrigated acre.

4-8.3 The district incentive programs may provide for the temporary or permanent retirement of certified ground water irrigated acres. (10/03/2006)

4-8.4 Guidelines for incentive programs shall be established by the district or in cooperation with other agencies participating in the incentive program. (10/03/2006)

RULE 4-9 POOLING (11/13/07)

4-9.1 On forms provided by the district, two or more persons may agree to pool the allocation from their individual wells on their combined certified acres.

4-9.2 Information provided shall identify all persons involved, maps showing all acres pooled and all wells used along with the serial number and location of the flow meters for the wells and the history of use for each well.

4-9.3 The District may limit pooling if the use is between sub areas with different allocations.

4-9.4 The District may deny a request for pooling based on the rate of decline in areas in which the pooling will be used. District statistics and Ground Water Level Change maps from the Conservation and Survey Division of the University of Nebraska may be used for a reference of areas of decline. (11/13/07)

CHAPTER 5 – MANAGEMENT OF USES

RULE 5-1 TRANSFERS- GENERAL

5-1.1 Any person who intends to withdraw ground water and (a) transfer that ground water off the overlying land which he or she owns or controls or (b) otherwise change the location of use of ground water shall, before making such transfer, apply for a permit on forms provided by the District or as required by statute. (11/13/07)

5-1.2 Requests for a transfer that require a permit which falls under the authority of the Nebraska Department of Natural Resources, including the Municipal and Rural Domestic Ground Water Transfers Permit Act and the Industrial Ground Water Regulatory Act, will not be considered for action by the district until such time as the permits are approved by NDNR. (11/13/07)

5-1.3 The MRNRD shall approve the withdrawal and transport of ground water when a public water supplier providing water for municipal purposes receives a permit from the Nebraska Department of Natural Resources pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act.

5-1.4 Applicants for permits or approval for transfer pursuant to the Industrial Ground Water Regulatory Act are not required to apply for a transfer permit from the District. (11/13/07)

5-1.5 Issuance of the permit shall be conditioned on the applicant's compliance with the rules and regulations of the District from which the water is withdrawn.

5-1.6 The applicant shall be required to provide access to his or her property at reasonable times for purposes of inspection by officials of the District.

5-1.7 All applications for a transfer permit under the authority of the district shall be made on forms provided by the district and shall be approved, denied or conditioned by the Board. (11/13/07)

5-1.8 The application for a transfer permit shall be denied or conditioned to the extent that it is necessary to (1) ensure the consistency of the transfer with the purpose or purposes for which the management area was designated, (2) prevent adverse effects on other ground water users or on surface water appropriators, (3) maintain compliance with the Republican River Compact, and (4) otherwise protect the public interest and prevent detriment to the public welfare.

5-1.9 The application for a transfer permit also shall be denied if (1) the location or operation of the proposed water well or other works would conflict with any regulations or controls adopted by the District or (2) the proposed use would not be a beneficial use.

5-1.10 The District may further limit the allocation upon transfer of use if the use is between sub areas with different allocations.

5-1.11 Transfer of use or permanent transfer may be made within sub areas, from the Quick Response Sub Area to the Upland Sub Area, and out of a critical unit.

5-1.12 The District may deny a request for transfer based on the rate of decline in the area into which the transfer will be used. District statistics and Ground Water Level Change maps from the Conservation and Survey Division of the University of Nebraska may be used for a reference of areas of decline. (10/03/2006)

5-1.13 The District may limit the allocation to the consumptive use associated with the certified use if the transfer is to a different preference use.

5-1.14 All requests for a transfer shall be made in accordance with Rule 5-1.

5-1.15 All requests for a transfer shall show a history of use.

5-1.16 The issuance, by the District, of a transfer permit shall not vest in any person the right to violate any District rule, regulation, or control in effect on the date of issuance of the permit or to violate any rule, regulation, or control properly adopted after such date.

5-1.17 The issuance, by the District, of a transfer permit shall not vest in any person the right to violate any statute, state agency or other jurisdictional agency's rule, regulation, or control in effect on the date of issuance of the permit or to violate any rule, regulation, or control properly adopted after such date. It is the responsibility of the applicant to ensure compliance with other rules and regulations.

5-1.18 The District shall review such applications and issue, with or without conditions, or deny the permit within thirty (30) days after the application is properly filed. An incomplete or defective application shall be returned for correction. If correction is not made within sixty (60) days the application shall be cancelled.

RULE 5-2 TRANSFERS- TYPES and PERMIT REQUIREMENTS

5-2.1 Transfers out of the District. Any person who desires to withdraw ground water from wells located within the District and transport that ground water out of the District for use elsewhere in the State may do so after obtaining a transfer permit in accordance with Rule 5-3. Use of the withdrawn water must be approved by the District within which the water will be used. Ground water shall not be transferred or transported to lands outside of the boundaries of the Republican River Basin as defined in the Republican River Compact.

5-2.2 Transfers into the District. Ground water withdrawn outside the District shall not be transported for use inside the District unless the District from which the ground water is withdrawn approves the withdrawal and transport in advance. Use of the transported water must be in accordance with these rules.

5-2.3 Transfer out of State. Requests for transfer of ground water out of state pursuant to NRRS Section 46-613.01 shall not be acted upon by the District until such time as the approval or denial, by the Nebraska Department of Natural Resources, of the required transfer permit.

5-2.4 Transfer of Use. A portion or all of the base allocation may be transferred to another user for the same or another use. Only the accumulated unused portion of a base allocation can be transferred. If an allocation

had been completely used, no transfer of use would be available until the next allocation period. Reserve associated with the allocation or portion thereof may also be transferred. Bonus inches may not be transferred. (11/13/07)

5-2.4.1 If the transfer of use is for the entire base allocation, the well from which the use was transferred cannot be used during the period of time covered by the transfer. The well must be configured to prevent the possibility of contamination of the ground water.

5-2.4.2 After January 1, 2008, the transfers of use will not be accepted after October 15th in the final year of an allocation period. (11/13/07)

5-2.5 Permanent Transfer. A permanent transfer may be accomplished by decommissioning a well and discontinuing its certified use and transferring the right to that use to another owner or new location on property owned by the same landowner. The new well shall be limited to the quantity of the allocation associated with the certified use from the well being replaced. (10/03/2006)

5-2.5.1 If the well for which the use is being permanently transferred is part of a series, or a well that is commingled, combined, clustered or joined with other water wells, then only that pro rata portion of the allocation is transferred.

5-2.6 Permanent Transfer of Acres. A landowner may permanently transfer a portion of his certified acres to another party. This transfer shall not result in an increase in total certified acres. The district may limit this transfer according to rules 5-2.7 through 5-2.13 and the capability of the wells involved to pump water to the acres transferred. (10/03/2006)

5-2.7 The allocation for any use is associated with the certification of that use. The right to use the allocation shall be surrendered with a transfer of use or a permanent transfer. The new user would be limited to the quantity of allocation associated with the certified use and would be subject to the same restrictions on volume of use as the original allocation. A portion of the allocation for a municipal use may be transferred to another use. The amount transferred would be deducted from the municipal allocation.

5-2.8 The District may further limit the allocation, upon transfer of use, if the use is between sub areas with different allocations.

5-2.9 Transfer of use or permanent transfer may be made within sub areas, from the Quick Response Sub Area to the Upland Sub Area, and out of a critical unit.

5-2.10 The District may deny a request for transfer based on the rate of decline in the area into which the transfer will be used. District statistics and Ground Water Level Change maps from the Conservation and Survey Division of the University of Nebraska may be used for a reference of areas of decline. (10/03/2006)

5-2.11 If the transfer is to a different preference of use, the District may limit the allocation to the consumptive use associated with the certified use that is being transferred. (11/13/07)

5-2.12 All requests for a transfer shall be made in accordance with Rule 5-1.

5-2.13 All requests for a transfer shall show a history of use.

5-2.14 n application for a permit to transfer shall be made on forms provided by the district and shall contain the following information: (11/13/07)

5-2.14.1 The name and post office address of the well owners for the point of withdrawal and the point of transfer,

5-2.14.2 The point of withdrawal,

5-2.14.3 The point of transfer,

5-2.14.4 The registration number of the water well(s) involved,

5-2.14.5 If for irrigated use, the certified acres of the water well(s) involved,

5-2.14.6 The capacity of the well from which the transfer is made,

5-2.14.7 The nature of the proposed use and whether it is a reasonable and beneficial use of ground water,

5-2.14.8 The availability to the applicant of alternative sources of surface or ground water,

5-2.14.9 Any negative effect of the proposed withdrawal on ground water and surface water supplies needed to meet present or reasonable future demands within the State or to comply with the Republican River Compact,

5-2.14.10 Any adverse environmental effect of the proposed withdrawal or transportation of ground water,

5-2.14.11 The cumulative effect of the proposed withdrawal and transfer relative to the matters listed in 5-2.14.2 through 5-.14.10, and

5-2.14.12 Any other factors consistent with the purposes of this section that the District deems relevant to protect the health, safety, and/or welfare of the District and its citizens.

RULE 5-3 ALLOCATION

5-3.1 The use of ground water from all regulated water wells shall be allocated by the District. Allocations will be set after considering: (1) the relationship between wells and surface waters and the impact of well usage on stream flow; (2) whether ground water levels are declining; and (3) such other factors as the Board determines may be relevant to the appropriate amount of water to be withdrawn.

5-3.2 INDUSTRIAL USES: Regulated wells for industrial uses, in place prior to January 1, 2004, shall receive an allocation determined on a case-by-case basis, taking into account the history of use of the wells and the needs of the industry for which the well is used. Additional allocations, up to twenty (20) percent above established use, may be granted for expansion. The industry shall provide notice to the District of its need for additional allocation. Additional allocations as needed to comply with state or federal rules shall be added to the certified use without penalty to the industry.

5-3.3 New industrial uses shall be granted a base consumptive use allocation of 80.65 acre feet per year. (12/01/2006)

5-3.3.1 For uses requesting an allocation greater than 80.65 acre feet, the allocation must be approved by the board of directors. The person requesting the allocation shall provide evidence that the allocation requested is no greater than the industry related standard for that type of use.

5-3.3.2 The requested allocation shall only be granted upon proof that another certified use, of an equal or greater amount, is permanently retired or transferred in accordance with 5-2.6 through 5-2.13. (11/13/07)

5-3.3.3 Preapproval, by the board, of an allocation may be requested by an economic development group or similar organization. Allocations approved in this manner are only valid for a period of one year from the date of approval unless the industry begins operation.

5-3.3.4 Allocations for industrial wells the use of which come under the authority of the Industrial Ground Water Regulatory Act shall be determined by the amount permitted by the Act.

5-3.3.5 In all situations an economic development group or an industry may purchase or otherwise retire an existing allocation and apply that use to there planned development.

5-3.4 MUNICIPAL USES – Without further need of application, each municipality shall be granted an annual per capita allocation as shown in Table 1. This allocation for an "average town" is based on the land area of all communities in the District with a public water supply and the base allocation for Upland Sub Area irrigated acres. Municipal uses shall be reviewed at the February Board meeting each year and adjustments for growth shall be computed. The reports as required in Rule 4-5 are necessary to determine overall ground water use in the District. Industrial uses within a municipality that exceed the existing municipal allocation shall be in accordance with 5-3.3, new industrial uses. These industrial uses shall include, but not be limited to, manufacturing, commercial, power generation and maintenance of the turf of a golf course. (11/13/07)

5-3.5 LIVESTOCK OPERATION WELLS - will be allocated an amount equal to the maximum reasonable quantity of water for livestock and poultry as shown in Table 2.

5-3.6 Upon completion by the operator and receipt by the District of the report required by Rule 4-5, allocations for industrial uses, municipal uses and livestock operation uses shall be reviewed annually and adjustments to allocations may be considered at the February Board meeting.

5-3.7 IRRIGATION USES (11/13/07)

5-3.7.1 Base allocation – Twelve (12) inches per year

5-3.7.2 Base allocation period – Five (5) years

5-3.7.3 Cumulative allocation – 60 inches

5-3.7.3.1 Cumulative allocation may be increased by one (1) bonus inch each time the State of Nebraska has stayed within its yearly allocation the previous two years.

5-3.7.4 Base certification – One hundred (100) percent of certified irrigated acres

5-3.7.5 Allocation Year – January 1st to December 31st

PROVISIONS FOR SUB AREAS

5-3.8 **UPLAND SUB AREA** - For the period commencing January 1, 2008 and ending December 31, 2012,

5-3.8.1 Allocation: Sixty (60) inches for the entire period

5-3.8.2 Maximum Allocation Year use: unrestricted

5-3.8.3 Maximum Allocation Year use in Water Short Year: unrestricted subject to any changes made pursuant to Rule 4-7.

5-3.9 **QUICK RESPONSE SUB AREA** - For the period commencing January 1, 2008 and ending December 31, 2012.

5-3.9.1 Allocation: Sixty (60) inches for the entire period

5-3.9.2 Maximum Allocation Year use: unrestricted

5-3.9.3 Maximum Allocation Year use in Water Short Year: unrestricted subject to any changes made pursuant to Rule 4-7.

5-3.10 **PLATTE SUB AREA** - For the period commencing January 1, 2008 and ending December 31, 2012,

5-3.10.1 Allocation: unrestricted

5-3.10.2 Allocation period: Not applicable

5-3.10.3 Base allocation: Not applicable

5-3.10.4 Base Certification: One hundred (100) percent of certified irrigated acres

5-3.10.5 Maximum yearly use: unrestricted

5-3.11 **SUPPLEMENTAL WELLS** – For the period commencing January 1, 2008 and ending December 31, 2012,

5-3.11.1 Allocation: Sixty (60) inches minus the amount of surface water delivered to, transferred from or otherwise available at the headgate or delivery point at the field to those acres also irrigated with ground water. (10/03/2006) (11/13/07)

5-3.11.2 In a Water Short Year, base certification and maximum allocation shall be in accordance with 5-3.8 and 5-3.9 minus the amount of surface water used on those acres also irrigated with ground water. (10/03/2006)

5-3.12 PENALTY - If at the end of an allocation period an operator has exceeded his or her allocation, the allocation for the next allocation period shall be reduced by the number of acre inches by which said allocation was exceeded in the prior period for the first three inches of overuse and by

twice the number of inches of overuse for the fourth and subsequent inches of overuse.

5-3.13 PENALTY – Overuse of the base allocation during a Water Short Year shall result in the reduction of twice the number of acre-inches overused in the next allocation period.

5-3.14 An operator must have a positive balance in his or her allocation before using water in any year of an allocation period. The District will notify landowners and/or operators anytime the balance of their allocation goes below zero.

5-3.15 For irrigation purposes, if at the end of the allocation period, an operator has consumed less than his or her allocation, he or she may carry the reserve or unused portion forward to the subsequent allocation period. However, the maximum amount of reserve cannot exceed the base allocation of the completed period. Reserve ground water must be used for the same certified acres for which the water was originally allocated, unless approved for transfer pursuant to Rule 5-2.4.

5-3.16 Certified irrigated acres participating in the Federal Conservation Reserve Program (CRP), EQIP, prevented planting or similar programs shall not receive an allocation during the term of participation. Certified irrigated acres removed from these programs shall be granted an allocation that is prorated for the remaining years of the allocation period.

5-3.17 Supplemental wells shall be reported to the District before an allocation is granted.

5-3.18 On or before January 1, 2005, operators of all other regulated water wells for which allocations have not been established by the District shall apply for an allocation and such wells shall not be operated until the District has approved an allocation. The allocation for uses not specifically identified shall be equal to the allocation for irrigated uses as set for the sub area in which the well is located for each one hundred and sixty (160) acres or eighty (80) acre portion thereof under the control of the operator. These acres cannot be certified for other uses or receive another allocation without the consent of the District.

5-3.19 The District may review any allocation, rotation or reduction control imposed in a management area and/or sub area and shall adjust allocations, rotations or reductions to accommodate or otherwise reflect findings of such review consistent with the ground water management objectives. Such review shall consider more accurate data or information that was not available at the time of the allocation, rotation or reduction order, designation of a Water Short Year and such other factors as the District deems appropriate.

5-3.20 The District may institute formal adjudicatory proceedings or take any other legal action authorized or permitted by law to prohibit further withdrawal of ground water from any regulated well whenever an operator has exhausted his or her allocation during or before the end of any allocation period or has in any other way violated the amount, limitations, or conditions of his or her allocation or violated any other rules of the

District. In the event of such action, no ground water may be withdrawn until the operator has adhered to District rules and regulations.

RULE 5-4 CRITICAL UNITS

5-4.1 SWANSON Critical Unit - That portion of the Quick Response Sub Area west of a north-south line through the centerline of Trenton Dam. (see Map 2)

5-4.1.1 Action will not be allowed that would increase the certified acres in this unit.

RULE 5-5 REDUCTION OF IRRIGATED ACRES

5-5.1 No later than November 15 after the designation of the potential for a Water Short Year, the District will notify operators, by mail, in the appropriate sub areas of the potential requirement to reduce certified ground water irrigated acres pursuant to Rule 4-7.

5-5.2 Operators in the Quick Response Sub Area will be required to report, on forms provided by the District, their certified uses, the acres that will be reduced and their proposed uses for the upcoming year.

5-5.3 Certified acres with crops requiring ten (10) acre-inches or less of ground water shall not be required to reduce according to Rule 5-5.2.

RULE 5-6 LIMIT OR PREVENT THE EXPANSION OF NEW ACRES

5-6.1 Beginning on November 17, 2003 and except as provided by Rules 4-6.10 and 5-6.2, no irrigation well may be used to irrigate any acre that was not irrigated with ground water at some time between January 1, 1993 and November 17, 2003.

5-6.2 With the prior approval of the Board and completion of the appropriate transfer permit, acres not irrigated with ground water between January 1, 1993 and November 17, 2003, may be irrigated only if the Board determines that irrigation has been or will be discontinued on an equal or greater number of acres that were irrigated with ground water between January 1, 2000 and November 17, 2003. In deciding whether to approve any such proposed substitution of ground water irrigated acres, the Board shall consider the extent to which, if at all, such substitution of acres would adversely affect other ground water users or surface water appropriators or would cause an increase in Nebraska's consumptive use as calculated pursuant to the Republican River Compact.

Effective
January 1, 2005

Middle Republican NRD

revised
Jan 8, 2008

INTEGRATED MANAGEMENT PLAN
Jointly Developed by the
DEPARTMENT OF NATURAL RESOURCES
And the
MIDDLE REPUBLICAN NATURAL RESOURCES DISTRICT

I. AUTHORITY

This integrated management plan (IMP) was prepared by the Board of Directors of the Middle Republican Natural Resources District (MRNRD) and the Nebraska Department of Natural Resources (NDNR) in accordance with Neb. Rev. Stat. §§ 46-715 through 46-718.

II. BACKGROUND

In 1943 the States of Colorado, Kansas and Nebraska entered into the Republican River Compact (Compact) with the approval of Congress. The Compact provides for the equitable apportionment of the "virgin water supply" of the Republican River Basin. Following several years of dispute about Nebraska's consumptive use of water within the Basin, Kansas filed an original action in the United States Supreme Court (Court) against the states of Nebraska and Colorado in 1998. After several rulings by the Court and its Special Master and several months of negotiation, all three states entered into a comprehensive agreement known as the Final Settlement Stipulation (FSS). The FSS was approved by the Court on May 19, 2003, and the Special Master's final report approving the Joint Ground Water Model developed by all three states for use in computing streamflow depletions resulting from ground water use and for computing the imported mound credit was submitted to the Court on September 17, 2003.

In July, 1996, the MRNRD and the other three Natural Resources Districts in the Republican River Basin, pursuant to then Section 46-656.28 of the Nebraska statutes, initiated a joint action planning process with the Department of Water Resources (DWR), the predecessor agency to NDNR. In accordance with that process, DWR first made a preliminary determination in 1996 that "there was reason to believe that the use of hydrologically connected ground water and surface water resources is contributing to or is in the reasonably foreseeable future likely to contribute to disputes over the Republican River Compact." When the studies required by Section 46-656.28 had been completed, NDNR issued its conclusions on May 20, 2003, in the form of a report entitled: "Republican River Basin, Report of Preliminary Findings." Those conclusions included the following determination:

> Pursuant to Section 46-656.28 and the preliminary findings in this report, the Department determined that present and future Compact disputes

arising out of the use of hydrologically connected ground water and surface water resources in the Republican River Basin could be eliminated or reduced through the adoption of a joint action plan.

Following four hearings on that report, NDNR made final the preliminary conclusions in the report and the four Basin Natural Resources Districts were so informed. The MRNRD and the other three Districts each then adopted orders to proceed with developing a joint action plan for integrated management of hydrologically connected surface water and ground water resources in the Basin; preparation of a joint action plan for the MRNRD began soon thereafter.

The Nebraska Legislature adopted LB962 in April of 2004 and it was signed by Governor Johanns on April 15, 2004, and became operative on July 16, 2004. That bill repealed Section 46-656.28 and replaced it with legislation providing for a revised process for addressing hydrologically connected surface water and ground water resources. In order to avoid the need to begin anew the integrated management planning processes that had been commenced but not completed under Section 46-656.28, LB962 provided for the transition of those ongoing planning processes into the newly enacted process now codified as Sections 46-713 to 46-719. The MRNRD and NDNR agreed that preparation of a joint action plan had not been completed prior to July 16, 2004; therefore, subsection (3) of what is codified as Section 46-720, governs that transition. Completion of this plan proceeded under the new process and this plan was adopted in accordance with Section 46-718.

The MRNRD and the NDNR adopted an integrated management plan effective January 1, 2005, that contained ground water rules and regulations for the 2005-2007 period. That integrated management plan established an average ground water allocation of thirteen (13) inches per certified acre, certified all uses and included several other controls. A goal of the 2005 integrated management plan was to reduce water use by five percent (5%) from the 1998-2002 baseline. Since that time, efforts have been taken to implement or conduct incentive programs, studies, and research to further our understanding and ability to comply with the Republican River Compact and the FSS.

III. AGREEMENTS

The MRNRD and the NDNR wish to adopt and implement a revised IMP for the regulation of water resources within the District as required by the laws of the State of Nebraska. The MRNRD and the NDNR agree that the IMP for the District shall keep the District's average net depletions to an amount within thirty percent (30%) of the State's average allowable ground water depletions. Based upon its calculations during periods of average precipitation, the NDNR believes that a twenty percent (20%) reduction from the 98-02 pumping volume would be sufficient, without additional streamflow augmentation, to keep the District's average net depletions within the MRNRD's thirty percent (30%) share of the State's allowable ground water depletions through the year 2020.

The NDNR has determined the following pumping volumes, depletion volumes, and depletion percentages for the period 1998-2002 listed below and defined as "1998-2002 Baselines". The pumping volumes are used throughout this IMP and are referenced as the "98-02 pumping volume". NDNR, through the use of the Republican River Compact Administration Ground Water Model, has also determined each District's impact on streamflow for the baseline period and those impacts are listed below and defined as "98-02 depletion volume". Those depletion volumes have resulted in depletion percentages used throughout this IMP and are listed below and defined as "98-02 depletion percentages."

The pumping volumes used to make these determinations will be evaluated within the next five years to determine their accuracy as compared with metered pumping volumes. If the 98-02 pumping volumes are found to be in error, the pumping volumes for the 1998-2002 period will be revised and the percentage of depletions for this period will be readjusted based on the new pumping volumes.

The failure of any District to adopt, implement, or enforce an IMP adequate to meet their proportionate share of the responsibility to achieve and maintain Nebraska's compliance with the Compact shall not by itself require any additional action by the other Districts. Neither the MRNRD or NDNR will require the integrated management plan to be amended solely for the purpose of changing the responsibility of water users within the MRNRD based on the failure of the other Basin NRDs to implement or enforce an integrated management plan to meet their share of the responsibility to keep Nebraska in compliance with the Republican River Compact.

IV. DEFINITIONS

A. **1998-2002 Baselines** - The depletions to streamflow, in the Nebraska portion of the Republican River Basin, as a result of surface water and ground water uses in the years 1998-2002 inclusive.

98-02 Pumping Volume:
URNRD-531,763 acre-feet (AF), MRNRD-309,479 AF, LRNRD-242,289 AF
98-02 Depletion Volume:
URNRD-74,161 AF, MRNRD-52,168, LRNRD-43,954 AF
98-02 Depletion Percentage:
URNRD-44%, MRNRD-30%, LRNRD-26%

B. **Allowable Streamflow Depletions** - the maximum amount of streamflow depletion in the Republican River Basin that can occur in a given year without Nebraska exceeding its allocation. Allowable streamflow depletions are the sum of the allowable ground water depletions and the allowable surface water depletions.

C. **Allowable Surface Water Depletions** – the maximum level of depletions to streamflow that may occur as a result of accountable surface water uses, based on annual Republican River Compact Administration (RRCA) calculations, within the Republican River Basin in a given year without Nebraska exceeding its allocation.

D. **Allowable Ground Water Depletions** - the maximum level of depletions to streamflow that may occur as a result of ground water pumping of wells within the Republican River Basin that can occur in a given year without Nebraska exceeding its allocation.

E. **Allowable Ground Water Depletion for the MRNRD** - the depletions to streamflow resulting from the impact of ground water pumping in the MRNRD. These depletions shall average no greater than 30% of the allowable ground water depletion. The average shall be computed using the allowable annual ground water depletion for the same years as are used to determine the averages for Nebraska's compliance with the FSS.

F. **Supplemental Programs** – as used in this plan, refers to, but is not limited to; surface water or ground water augmentation projects, river flow enhancement projects, incentive programs, riparian management projects and other projects that may reduce the District's net depletions to streamflow.

G. **Compliance Standard** - the criteria that will be used to determine whether the controls, adopted as rules and regulations by the MRNRD, and adopted in this plan by the NDNR are sufficient to meet the goals and objectives of this integrated management plan pertaining to pumping volumes and depletions. Compliance will be measured in part using the RRCA Ground Water Model.

H. **Net Depletion** – the actual Ground Water Depletion for the MRNRD less any reduction in streamflow depletions or increase in accretions to the stream resulting from supplemental projects.

V. GOALS AND OBJECTIVES

Pursuant to Neb. Rev. Stat. § 46-715, the goals and objectives of an integrated management plan must have a purpose of sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety, and welfare of the Republican River Basin can be achieved and maintained for both the near term and the long term. The MRNRD will meet its responsibility under Neb. Rev. Stat. § 46-715, including meeting the obligations under the FSS, by adopting revised rules to implement the integrated management plan with regulations and other supplemental programs.

The following goals and objectives are adopted by the MRNRD and the NDNR to achieve the purpose stated above:

A. Goals:

1. In cooperation with the other Basin Natural Resources Districts and the Nebraska Department of Natural Resources, maintain compliance with the Republican River Compact as adopted in 1943 and as implemented in accordance with the FSS approved by the United States Supreme Court on May 19, 2003.

2. Ensure that ground water and surface water users within the MRNRD assume their share of the responsibility to keep Nebraska in compliance with the Republican River Compact.

3. Provide that MRNRD's share of that responsibility be distributed in an equitable manner and by minimizing, to the extent possible, adverse economic, social, and environmental consequences.

4. Reserve any streamflow available from regulation or supplemental programs, enacted or implemented to maintain Compact compliance, from any use that would negate the benefit of such regulation or programs.

5. Protect ground water users whose water wells are dependent on recharge from the river or stream and the surface water appropriators on such river or stream from streamflow depletions caused by surface water uses and ground water uses begun after the date the river basin was designated as fully appropriated.

B. Objectives:

1. With limited exceptions, prevent the initiation of new or expanded uses of water that increase Nebraska's computed beneficial consumptive use of water within the MRNRD.

2. Ensure that administration of surface water appropriations in the Basin is in accordance with the Compact and in full compliance with Nebraska law.

3. Achieve, on average, a twenty percent (20%) reduction in 98-02 pumping volume under average precipitation conditions.

4. Maintain the MRNRD net depletions at or within thirty percent (30%) of the allowable ground water depletion.

5. After taking into account any reduction in beneficial consumptive use achieved through District or basin-wide supplemental projects and other projects developed at the Basin or District level with the expressed purpose or result of reducing consumptive use or increasing streamflow, make such additional reductions in ground water use in water short years as are necessary to achieve a reduction in beneficial consumptive use in the MRNRD in an amount proportionate to the total reduction in consumptive use that is needed in Nebraska above Guide Rock in such years.

6. Cause the required reductions in water use to be achieved through a combination of regulatory and supplemental programs designed to reduce beneficial consumptive use, relying to the extent available funds allow, on incentive programs that are made available to as many MRNRD water users as possible.

7. The MRNRD and the NDNR will investigate or explore methods to manage the impact of vegetative growth on streamflow.

8. Develop a procedure to provide offsets for new consumptive uses of water so that economic development in the MRNRD may continue without producing an overall increase in ground water depletions as a result of new uses.

VI. MAP - see map 1.

The area subject to this integrated management plan is the geographic area within the boundaries of the Middle Republican Natural Resources District.

VII. FORECAST

Each year, in accordance with Neb. Rev. Stat. § 46-715(5), the NDNR, in consultation with the Republican River NRDs, shall forecast on an annual basis the maximum amount of water that may be available from streamflow for beneficial use in the short term and long term in order to determine if the ground water controls implemented by the MRNRD through rules and regulations and the surface water controls implemented by NDNR through the IMP are sufficient to ensure that the state of Nebraska will remain in compliance with the Republican River Compact.

VIII. GROUND WATER CONTROLS – Middle Republican NRD

In accordance with Neb. Rev. Stat. § 46-715, one or more of the ground water controls authorized by Neb. Rev. Stat. § 46-739 and Neb. Rev. Stat. § 46-740 shall be adopted for the purpose of implementing this plan. Other authorities, provided for in the Ground Water Management and Protection Act, may be used

to supplement these controls. These controls, along with any applicable supplemental programs, shall be consistent with the goals and objectives of this plan and be sufficient to meet the compliance standards set forth below, ensure that the state will remain in compliance with the Republican River Compact, and protect the ground water users whose water wells are dependent on recharge from the river or stream and the surface water appropriators on such river or stream from streamflow depletion caused by surface and ground water uses begun after on July 16, 2004, the date the river basin was designated as fully appropriated, in accordance with Neb. Rev. Stat. §§ 46-720 and 46-713-46-715, If it is determined by NDNR and the MRNRD, that all of the Districts in the Basin met their proportional share of responsibility, but Nebraska is nonetheless out of compliance with the FSS, any further reductions in net depletions necessary shall be achieved by the Districts, as the District deems appropriate, based on the same proportions as contained in the 1998-2002 baseline depletion percentages.

The Rules and Regulations – Ground Water Management Area in the Middle Republican Natural Resources District contains the controls required by the FSS and other controls needed for the effective administration of a ground water management subarea for integrated management. The actions proposed by the FSS were rules and regulations for transfers, meters, and certification of acres. In addition, a well drilling moratorium and a ban on the increase of irrigated acres were also implemented. The compliance standard and management activities listed below will be or have been implemented to achieve and maintain Compact compliance.

Amendments dealing with the requirements of Neb. Rev. Stat. §46-715(3)(b), and §46-715(3)(c) shall have the concurrence of NDNR. The MRNRD may otherwise amend these regulations without the approval of the NDNR so long as the compliance standards listed below are met.

If the compliance standards listed below, including consideration of the averages as described in Section VII.A.3.b, are not met, the MRNRD, with the assistance of NDNR, shall formulate adequate rules and regulations, acceptable to NDNR, to meet the Compliance Standards. The revisions to the rules and regulations shall be such that the compliance standards will be achieved within two years from the determination that the compliance standards were exceeded if the State of Nebraska is within compliance with the FSS, or within one year of the determination that the compliance standards have been exceeded and the State of Nebraska is not within compliance with the FSS.

The Determination of whether the MRNRD is in compliance with the compliance standards shall be made in conjunction with the regular annual meeting of the RRCA and shall be based on each year's annual Compact accounting.

A. Compliance Standards

1. PURPOSE. These Compliance Standards are established by NDNR and MRNRD to assess whether the course of action taken by the MRNRD, with the intention of providing a proportionate share of assistance to the State, is sufficient for the State to maintain compliance with the FSS and the Compact. The action taken by the MRNRD shall be evaluated in connection with the action taken by the other Districts in the Republican River Basin and any other relevant considerations, including the information and data provided by NDNR and past action by the District.

2. DURATION. These Compliance Standards shall be used by the MRNRD commencing January 1, 2008 through January 1, 2013. During this period, the NDNR and MRNRD shall examine the sufficiency and effectiveness of the Compliance Standards to determine if amendments or revisions are necessary to ensure the State's compliance with the FSS and the Compact. Nothing contained herein shall prohibit or preclude any amendment or revision, at anytime, by the NDNR and MRNRD, when such action is necessary. Further, nothing contained in this subsection shall be construed as eliminating the review of the provisions of this IMP as allowed by Neb. Rev. Stat. §46-715.

3. STANDARDS. The MRNRD shall adopt and implement rules and regulations which shall meet the requirements of both the following compliance standards:

    a. Provide for a twenty percent (20%) reduction in pumping from the 98-02 pumping volume using a combination of regulation and supplemental programs so that the average ground water pumping volume is no greater than 247,580 acre-feet over the long term.
        i. If precipitation is lower than average for any given year, the ground water pumping volume for that year may be above 247,580 acre-feet.
        ii. If incentive or supplemental programs are implemented so that on average stream flow is increased, the ground water pumping volume may be increased above the 247,580 acre feet in proportion to that increased amount of streamflow as determined by the Republican River Compact Administration Ground Water Model (RRCAGWM).

    b. The District's net depletions shall average no greater than thirty percent (30%) of the State of Nebraska's allowable ground water depletions as accounted by the RRCAGWM. The average shall be computed using the annual allowable ~~annual~~ ground

water depletion for the same years as are used to determine the averages for Nebraska's compliance with the FSS.

B. OTHER CONTROLS AND MANAGEMENT ACTIVITIES

1. Maintain a moratorium on new uses with the exceptions noted in the FSS.

2. Limit or prevent the expansion of irrigation uses.

3. Maintain requirement for metering of all uses according to MRNRD standards.

4. Provide for transfers according to District standards.

5. The MRNRD shall provide NDNR with copies of District actions taken on variances and consult with NDNR to minimize or eliminate any impact, relating to Compact compliance, that may arise as a result of a variance granted by the District.

6. NDNR will consult with the MRNRD when considering applications for permits under the Municipal and Rural Domestic Ground Water Transfers Permit Act, the Industrial Ground Water Regulatory Act or other such permitting actions by the NDNR that will have an impact on water supplies of the Republican River Basin.

7. The MRNRD will work with NDNR to achieve the maximum amount of benefit in the accounting of leased or purchased water under the authority of River Flow Enhancement projects or in similar projects.

8. The MRNRD and the NDNR recognize that the required reductions in water consumption could be accomplished by means other than those adopted in this IMP. The IMP and associated controls may need to be amended in the future to implement any such revisions.

IX. SURFACE WATER CONTROLS - Department of Natural Resources

The authority for the surface water component of this integrated management plan is Neb. Rev. Stat. §46-715 and §46-716. The surface water controls that will be continued and/or begun by the NDNR are as follows:

A. NDNR will do the following additional surface water administration as required by the FSS:

1. To provide for regulation of natural flow between Harlan County Lake and Superior-Courtland Diversion Dam, Nebraska will recognize a priority date of February 26, 1948, for Kansas Bostwick Irrigation

District, the same priority date as the priority date held by the Nebraska Bostwick Irrigation District's Courtland Canal water right.

2. When water is needed for diversion at Guide Rock and the projected or actual irrigation supply is less than 130,000 acre-feet of storage available for use from Harlan County Lake as determined by the Bureau of Reclamation using the methodology described in Harlan County Lake Operation Consensus Plan attached as Appendix K to the FSS, Nebraska will close junior, and require compliance with senior, natural flow diversions of surface water between Harlan County Lake and Guide Rock.

3. Nebraska will protect storage water released from Harlan County Lake for delivery at Guide Rock from surface water diversions.

4. Nebraska, in concert with Kansas and in collaboration with the United States, and in the manner described in Appendix L to the FSS, will take actions to minimize the bypass flows at Superior-Courtland Diversion Dam.

B. Metering of all surface water diversions at the point of diversion from the stream will continue to be required. For surface water canals that are not part of a Bureau of Reclamation project, farm turnouts also will be required to be metered by the start of the 2005 irrigation season. All meters shall have a totalizer and shall meet NDNR standards for installation, accuracy and maintenance. All appropriators will be monitored closely to ensure that neither the rate of diversion nor the annual amount diverted exceeds that allowed by the applicable permit or by statute.

C. The NDNR's moratorium on the issuance of new surface water permits was made formal by Order of the Director dated July 14, 2004, and will be continued. Exceptions may be granted to the extent permitted by statute or to allow issuance of permits for existing reservoirs that currently do not now have such permits. Such reservoirs are limited to those identified through the FSS required inventory of over fifteen (15) acre-feet capacity reservoirs.

D. All proposed transfers of surface water rights shall be subject to the criteria for such transfers as found in Neb. Rev. Stat. §§46-290 to 46-294.04 and related NDNR rules or the criteria found in Neb. Rev. Stat. §§46-2,120 to 46-2,130 and related NDNR rules.

E. The NDNR completed the adjudication process for individual appropriators in the Republican River Basin upstream of Guide Rock in 2004. The results of that adjudication provided up-to-date records of the number and location of acres irrigated with surface water by such appropriators.

Those records will be used by the NDNR to monitor use of surface water and to make sure that unauthorized irrigation is not occurring. The NDNR also will be proactive in initiating subsequent adjudications whenever information available to the NDNR indicates the need for adjudication as outlined by state statutes..

F. At this time, due to the already limited availability of surface water supplies, the NDNR will not require that surface water appropriators apply or utilize additional conservation measures or that they be subject to other new restrictions on surface water use, except as may be necessary to meet the goals and objectives of this plan and to maintain compliance with the Compact. However, the NDNR reserves the right to request, in the future, that this IMP be modified to require any such additional measures. In the event such a request is made, the NDNR will "allow the affected surface water appropriators and surface water project sponsors a reasonable amount of time, not to exceed one hundred eighty days, unless extended by the NDNR, to identify the conservation measures to be applied or utilized, to develop a schedule for such application and utilization, and to comment on any other proposed restrictions." Neb. Rev. Stat. §46-716(2).

X. AUGMENTATION AND INCENTIVE PROGRAMS

The MRNRD and NDNR, alone or in cooperation with other parties, intend to establish and implement financial or other incentive programs to reduce beneficial consumptive use of water within the MRNRD. As a condition for participation in an incentive program, water users or landowners may be required to enter into and perform such agreements or covenants concerning the use of land or water as are necessary to produce the benefits for which the incentive program is established.

Such incentive programs may include any program authorized by state law and/or Federal programs such as the Conservation Reserve Enhancement Program (CREP) and Environmental Quality Incentives Program (EQIP) operated by the U.S. Department of Agriculture.

Projects that have a net effect of reducing consumptive use or increasing streamflow can originate from many sources. The MRNRD will initiate these types of projects when possible and participate in projects sponsored by other groups within our capabilities.

The MRNRD, through the Republican River Basin Coalition, intends to establish and implement river flow enhancement projects using the authorities available to the MRNRD by the enactment of LB 701 in 2007.

Any reductions in depletions to streamflow generated through supplemental programs, including acreage retirement or other incentive programs undertaken through programs available throughout the Republican River Basin with the use of funds distributed by the State of Nebraska or the United States Government will be accounted as credits to the entire Republican River Basin and not to any District, regardless of the location or other conditions of the acreage included in the program or of the location of the effect of such water savings on the river system. Any reductions in depletions to streamflow resulting from any such basin-wide programs shall be considered in the calculation of each District's compliance with the 98-02 depletion percentages.

However, should any District establish, fund, and implement its own such conservation program, available only for acreage within such District, the accounting of credit for the resulting water savings shall be given exclusively to that District. Also, with agreement of the Districts involved, the benefits from a supplemental program may be allocated to each District based upon their share of the cost of the program.

XI. REPORTING REQUIREMENTS

The MRNRD and the NDNR will make all documents, reports, records, computer runs or other calculations or material necessary to determine compliance with the Compact available to each other, regardless of whether such documents are available under the Nebraska Public Records Act or otherwise, unless such materials are identified as confidential under Nebraska statutes or by a ruling of a court of competent jurisdiction. Specifically, and without limitation, the MRNRD agrees to continue to provide GIS coverage maps of all lands irrigated and to meter, record and provide to the NDNR its ground water usage records in a manner consistent with the requirements of the Republican River Compact Accounting Procedures; the NDNR agrees to provide to the MRNRD all reports and records of the other Districts necessary to determine their compliance with reductions, in accordance with procedures described above, as well as all documentation and reports utilized by the NDNR to determine the Basin's virgin water supplies and Nebraska's compliance with the Compact. In the event any materials are withheld by either NDNR or MRNRD under a claim of statutory confidentiality, the party withholding such materials shall describe the contents of the materials and reasons for the denial in accordance with Neb. Rev. Stat. § 84-712.04.

XII. PLAN TO GATHER AND EVALUATE DATA

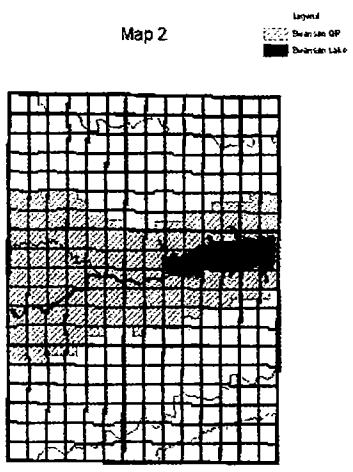
Compact accounting and data exchanges among the states shall be done annually in accordance with the Final Settlement Stipulation, dated December 15, 2002, including the Republican River Compact Administration (RRCA) Accounting Procedures and Reporting Requirements which are contained in Appendix C thereof. An annual report of the RRCA is published each year. Ongoing programs and new studies or other projects may become a source of

information that can be used to evaluate the effectiveness of controls adopted by the by the MRNRD and the NDNR. This accounting and the forecast in accordance with Neb. Rev. Stat. § 46-715(5) will increase understanding and test the validity of the conclusions and information upon which this plan is based.

XIII. INFORMATION CONSIDERED

Information used in the preparation and to be used in the implementation of this integrated management plan can be found in the simulation runs of the Republican River Compact Administration Ground Water Model, the data tables of the Final Settlement Stipulation for the Republican River Compact, Chapters 2 and 3 of the 1994 Middle Republican NRD Ground Water Management Plan and additional data on file with the District and the NDNR of Natural Resources.

Map 2



Swanson Critical Unit

This map was created for informational purposes only.
Created 08/10/04

Maximum Resonable Quantity of Water for Livestock and Poultry
October 2004

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

Table 2.

Middle Republican NRD
October 2004

Community	2000 Census	Sq. mi.	Area Factor	Gallons/Person/Day 15"	14"	13"	12"
Bartley	355	0.7	3				
Culberston	594	0.9	4				
Curtis	832	1.3	6				
Danbury	127	0.9	4				
Hayes Center	240	0.7	3				
Indianola	642	1.2	5				
Lebanon	70	0.2	1				
Maywood	331	0.5	2				
McCook	7994	5.3	22				
Moorefield	52	0.2	1				
Palisade	386	0.4	2				
Stockville	36	0.3	2				
Stratton	396	0.4	2				
Trenton	507	0.6	3				
Wallace	329	0.7	3				
			4.20				
Average Town	859	0.95	4	873	814	756	698

mi. sq.	factor
0.1	1
0.26	2
0.51	3
0.76	4
1.01	5
1.26	6
1.51	7
1.76	8
2.01	9
2.26	10
2.51	11
2.76	12
3.01	13
3.26	14
3.51	15
3.76	16
4.01	17
4.26	18
4.51	19
4.76	20
5.01	21
5.26	22
5.51	23
5.76	24

Table 1.

Allocation	gal/yr/160 acres				
15"	65170000	1509	1408	1308	1207
14"	60825333	1202	1122	1042	962
13"	56480667	1288	1202	1116	1030
12"	52136000	5624	5249	4874	4499
		2232	2083	1934	1785
		1391	1298	1205	1112
		2551	2381	2211	2041
		1079	1007	935	863
		491	459	426	393
		3434	3205	2976	2747
		925	863	802	740
		9919	9258	8597	7935
Table 1.		902	842	782	721
		1056	986	916	845
		1628	1520	1411	1302
Total Town	12891	803	750	696	643

14.3	58		