

DATE: June 18, 2013

TO: Holdrege Daily Citizen

FROM: Carie B. Lynch  
Administrative Secretary

RE: LEGAL NOTICE - Please publish three consecutive weeks beginning  
Friday, June 21, 2013  
Friday, June 28, 2013  
Friday, July 5<sup>th</sup>, 2013

Please forward Proof of Publication for the following Notice:

**ORDER**

BEFORE THE TRI-BASIN NATURAL RESOURCES DISTRICT  
BOARD OF DIRECTORS

In the matter of revising rules and regulations for the District-wide Integrated Water Management Area (IWMA), the Quantity Groundwater Management Area (QGMA) and Groundwater Quality Management Area (GQMA) of the Tri-Basin Natural Resources District (Tri-Basin NRD, or NRD).

**THE BOARD FINDS THAT:**

It is necessary to revise the Tri-Basin NRD groundwater management rules and regulations to more effectively manage the quality and quantity of groundwater resources within the district. Following are suggested revisions to the Tri-Basin NRD Rules and Regulations. The full text of the NRD Rules and Regulations is available on the NRD website.

**SECTION 1- Definitions**

1.1 Agricultural Groundwater Use shall mean irrigation of crops and pastures, as well as providing Groundwater for the health, consumption and sanitation of livestock. When livestock or irrigation is the primary use of a Well, a Well shall be considered agricultural in preference of use.

1.9 Certification may mean either:

1.9.1 a certificate issued by the District to an Operator for completion of the necessary fertilizer and irrigation water management educational programs approved by Tri-Basin NRD, as referred to in Section three of these rules, or

1.9.2 Data collected by the NRD to locate and enumerate cropland, hayland and pasture land within District boundaries that is irrigated from Groundwater or surface water resources (i.e., "Certified Irrigated Acres"), or to certify Commercial,

Industrial, Environmental and non-irrigation Agricultural Groundwater Uses, as referred to in sections eight through ten of these rules.

1.10 Commercial Groundwater Use shall mean consumptive and non-consumptive use of Groundwater to conduct any non-profit or for-profit business, except Agricultural, Industrial or Environmental Groundwater uses. When Commercial Groundwater Use is the primary use of a well, it shall be considered industrial in preference of use.

1.13 Conditional Replacement Well shall mean a Water Well that supplements existing Water Wells or surface water rights to irrigate NRD-certified irrigated lands or to provide water for domestic, municipal or industrial purposes. The owner of a Conditional Replacement Well permitted by the NRD may be subject to limitations, regulations and operational conditions regarding use of that Well that are different from limitations, regulations and conditions of operation imposed by the District on owners of other Wells within the District. In the absence of any other limitations, regulations or conditions of operation, the beneficial consumptive use of water resulting from operation of a Conditional Replacement Well shall be no greater than the historic consumptive use of water from the Well (if the well is supplemental to groundwater use) or surface water use (if the well is intended to supplement surface water use) on the parcel of land.

1.19 Domestic Groundwater Use shall mean use of Groundwater for purposes of health, fire control, consumption, and sanitation of humans. Domestic Groundwater supplies may be used and consumed by domestic livestock and food crops as long as human use is the primary purpose and largest annual water use by volume of a Well. When Domestic Groundwater Use is the primary use of a well, it shall be considered domestic in preference of use.

1.21 Eligible Well shall mean any Well or any interconnected series of Wells that are capable of pumping 50 gallons per minute or more, and which are registered with the Nebraska Department of Natural Resources as an active Well, and which meets one or more of the following additional criteria:

1.21.1 it is located within the Republican River Basin,

1.21.2 it was permitted by the NRD as a new or Conditional Replacement Well after September 15, 2004,

1.21.3 it is a Well permitted by the NRD for transferring Groundwater to another Parcel,

1.21.4 it replaces a well drilled before January 1, 2013 that is registered with the State of Nebraska for a commercial, environmental, industrial or municipal purpose, or

1.21.5 it is located within a Groundwater Quantity Management Phase II or Phase III management area.

NEW 1.22 Environmental Groundwater Use shall mean the consumptive and non-

consumptive use of Groundwater for the purpose of providing or enhancing fish and wildlife habitat, or for remediation of pollution. When Environmental Groundwater Use is the primary purpose of use of a well, it shall be considered agricultural in preference of use.

1.30 Industrial Groundwater use shall mean the consumptive and non-consumptive use of Groundwater for the purpose of creating, finishing or refining materials, manufacturing products, or other industrial processes. When Industrial Groundwater Use is the primary purpose of a well, it shall be considered industrial in preference of use.

NEW 1.53 Water Use Offset Credit shall mean water use discontinued for a definite period of time as a result of an agreement between Tri-Basin NRD and a water user. Such credit will be quantified in relation to average water consumption by a corn crop in Kearney, Phelps or Gosper counties, as determined by the NRD Board of Directors and the NE Department of Natural Resources.

### **SECTION 3- Groundwater Quality Management Area Regulations**

3.2 Phase Area Designation - The level of regulation in the three phase areas is in proportion to the severity of nitrate-nitrogen contamination. The severity of nitrate- nitrogen contamination is determined by averaging the Groundwater sample test results for all Tri-Basin NRD sampled Wells within a Township. Outliers (Wells that consistently test more than 10 ppm higher or lower than surrounding Wells) will be excluded from averages, if NRD staff determine that such outliers test high in Nitrates because they are affected by point source groundwater pollution.

3.5.2 Application of commercial nitrogen fertilizer for spring-planted crops shall be prohibited on all soils between September 1 and March 1 of the following year, except that producers may apply less than 60 pounds per acre of actual N (nitrogen) as an ingredient in a fertilizer formulation primarily composed of other nutrients or as a carrier for application of pesticides.

NEW 3.5.3 When a crop requires more than 80 pounds of actual N (nitrogen) overall, Producers shall apply nitrogen fertilizer in two or more applications at least two weeks apart.

### **SECTION 10- Irrigated Land Certification**

10.2. Procedure to Certify Irrigated Acres. County property tax rolls will be used as the primary data source for classification of irrigated land that the District will use to certify irrigated acres District-wide. Tri-Basin NRD recognizes that county assessors periodically re-measure Parcels, and that such re-measurements may

result in changes in assessed irrigated acres. Tri-Basin NRD will accept revisions to certified irrigated acres totaling four acres or less per parcel without further review.

If an assessor's re-measurement results in an increase of more than four irrigated acres per parcel, NRD staff will also re-measure the parcel to confirm the assessor's re-measurement result. If that result is confirmed, the affected landowner will be required to either: A. reduce irrigated acres during the next calendar year to the number certified by the NRD, or B. provide independently verified documentary proof that the acres in question were irrigated during the period 1997-2004 and request that the NRD Board approve a revision of certified irrigated acres, as described in Rule 10.2.2 below.

10.2.2. If a Parcel of land or portion thereof is not classified as irrigated cropland, hayland or grassland by a county assessor prior to designation by the NRD Board of Directors of an area as an Integrated Management Area or a Phase II Quantity Groundwater Management Area, the NRD Board of Directors may accept aerial photos, USDA Farm Service Agency records, or other independently verified documents that indicate a Parcel of land or portion thereof was irrigated during or after the 1997 crop year, but before 2005 as information to justify revision of NRD irrigated acre certifications.

10.2.2.1. Any land not certified for irrigation by Tri-Basin NRD before December 31, 2011 will only be certified by the Tri-Basin NRD Board of Directors if the Landowner requesting certification agrees to pay the county assessor in the county in which the land is located the equivalent of the difference between property taxes on irrigated cropland and property taxes on the land use which the land was actually classified for property tax purposes during the three years immediately preceding certification.

10.2.2.2. Anyone who wants to develop a new animal feeding operation or expand an existing animal feeding operation must agree to set aside sufficient Certified Irrigated Acres to offset the consumptive water use resulting from the new or expanded livestock operation as a condition for issuance of an NRD well permit.

10.2.4. Land that has been certified by the NRD for groundwater irrigation will be periodically reviewed by NRD staff to check the accuracy of NRD records.

10.2.4.1. Land that NRD staff determine is no longer irrigable due to a change in land use or loss of a water source will be recommended to the NRD Board of Directors for de-certification as irrigated land.

10.2.4.2. If land is de-certified for irrigation, the de-certification will take effect within six months or on January 1 of the following year, whichever is later, unless the acres subject to cancellation are transferred to a different Parcel before that date.

10.4. Procedure to Certify New Environmental, Commercial, non-Irrigation Agricultural and Industrial Groundwater Uses. Environmental, Commercial, non-irrigation Agricultural and Industrial Groundwater Uses that are supplied by non-municipal Water Wells that are established after April 1, 2013 must be certified by

the NRD Board of Directors before they can initiate such new uses.

10.4.1. All Environmental, Commercial, non-irrigation Agricultural and industrial Groundwater Uses that are supplied by non-municipal Water Wells that are established after March 1, 2013 must, as a condition of certification, agree to offset any impacts to streamflows that the NRD Board of Directors determine are likely to result from initiation of said new uses. Offsets can be secured by reducing an equivalent amount of existing depleting water uses in the same river basin, or, in the Platte Basin, the same overappropriated or fully appropriated designated portion of the Platte River Basin. Alternatively, if the NRD Board agrees to offer this option to a water user, they may lease Water Use Offset Credits from other water users, as described in NRD rule 9.7 and sub-sections.

**IT IS CONCLUDED THAT:**

The Board of Directors, in order to effectively enforce the Nebraska Groundwater Management and Protection Act have determined that is necessary to revise the Tri-Basin Natural Resources District Rules and Regulations for Management and Protection of Land and Water Resources.

Copies of the revised rules and regulations are available during normal business hours at the Tri-Basin NRD Office, 1723 N. Burlington St., Holdrege, Nebraska. District residents can also read the complete text of the district rules on the Tri-Basin NRD web site, [www.tribasinnr.org](http://www.tribasinnr.org), or receive a copy by mail by calling the NRD toll-free number, (877) 995-6688.

**IT IS HEREBY ORDERED:**

1. The revised Tri-Basin Natural Resources District Rules and Regulations for Management and Protection of Land and Water Resources shall become effective on September 1, 2013.

Pursuant to the majority vote of the Tri-Basin NRD Board of Directors on June 11, 2013, the revised Tri-Basin Natural Resources District Rules and Regulations for Management and Protection of Land and Water Resources shall become effective September 1, 2013.

For the Tri-Basin Natural Resources District

David Nickel, Chairman  
Tuesday, June 11, 2013