

**RULE 4  
RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE GROUNDWATER  
MANAGEMENT  
AND PROTECTION ACT**

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**CHAPTER 1 - GENERAL PROVISIONS**

- 1.1 The District will enforce the provisions of the Groundwater Management and Protection Act and all rules and regulations adopted pursuant thereto, by the issuance of cease and desist orders in accordance with the procedures hereinafter specified and by bringing appropriate actions in the district court of the county in which any violations occur for the enforcement of such orders.
- 1.2 Cease and desist orders may also be issued for the following reasons.
  - 1.2.1 Operation of an irrigation system in a manner which allows for improper irrigation runoff.
  - 1.2.2 Construction or operation of an illegal well as defined in these rules and regulations.

**CHAPTER 2 – DEFINITIONS**

- 2.1 Board or board of directors means the board of directors of the Upper Big Blue Natural Resources District acting in its official capacity.
- 2.2 Compliance officer means an employee, agent or director of the District authorized to perform the functions assigned thereto by these rules and regulations.
- 2.3 District means the Upper Big Blue Natural Resources District or other administrative agency or organization designated by the Board of Directors to carry out these rules and regulations.
- 2.4 District representative means an employee of the District or other persons specifically authorized by the District Board Directors to act on behalf of the District with regard to District Rule 4.
- 2.5 Gravity Irrigation means a method of irrigation utilizing water from a ditch, canal, pipe, or other conveyance directly to the surface of the ground, which is distributed across the field through a channel, furrow, or border by the force of gravity.
- 2.6 Groundwater means that water which occurs or moves, seeps, filters or percolates through the ground under the surface of the land.
- 2.7 Groundwater user means a person who extracts, withdraws or confines

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groundwater at a rate in excess of fifty (50) gallons per minute.

2.7.1 Whenever the landowner and operator are different, the term "groundwater user" will mean both the landowner and the operator.

2.8 Illegal well means:

2.8.1 A well not registered pursuant to Chapter 46, Article 6 of the Nebraska Revised Statutes,

2.8.2 A well not in compliance with the Nebraska Groundwater Management and Protection Act or the rules and regulations adopted pursuant thereto;

2.8.3 A well not in compliance with the Nebraska Chemigation Act or rules and regulations adopted pursuant thereto;

2.8.4 A well not in compliance with applicable laws of the State of Nebraska.

2.9 Improper irrigation runoff means the occurrence of irrigation runoff water which contributes to the waste of groundwater.

2.10 Irrigation runoff water means groundwater used for irrigation purposes which escapes from land owned, leased or otherwise under the direct supervision and control of a groundwater user.

2.10.1 Groundwater which becomes commingled with surface water runoff will be treated as irrigation runoff.

2.11 Operator means a person, partnership, association, corporation, municipality or other entity which operates properties to produce agricultural, horticultural, silvicultural, nursery products or aquiculture.

2.12 Person means a natural person, personal representative, trustee, guardian, conservator, partnership, association, corporation, municipality, irrigation district, agency or political subdivision of the State of Nebraska.

2.13 Sprinkler Irrigation means a method of irrigation in which the water is sprayed, or sprinkled, through the air to the ground surface or crop canopy.

2.14 Subsurface Drip Irrigation means a method of irrigation providing water to plants through small-diameter tubes and emitters below the surface of the ground.

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- 2.15 Water well means an artificial opening or excavation in the ground through which groundwater flows under natural pressure or is artificially withdrawn.

**CHAPTER 3 – COMPLAINTS**

- 3.1 A person who owns, rents or leases land or resides within the district; or anon-resident person who can show the actions of an operator or groundwater user within the district directly affects him or her; a district representative; or the board may file a written complaint.
- 3.2 Said complaint must be filed against a groundwater user alleging a violation of rules and regulations adopted pursuant to the Ground Water Management and Protection Act.
- 3.3 Complaints must be filed at the office of the District (319 East 25<sup>th</sup> Street, York, Nebraska 68467), or directly with a District representative, on complaint forms prepared by the District.

**CHAPTER 4 - INSPECTIONS AND INVESTIGATIONS**

- 4.1 If the nature of the alleged violation requires an onsite inspection, said inspection must occur within five (5) days after the complaint is filed (excluding Saturdays, Sundays and legal holidays).
- 4.2 The compliance officer or person designated by the compliance officer, upon proper identification and after delivering a copy of the complaint to the persons in control of the land, is authorized to enter upon the land for the purposes of making an inspection of the alleged violation.
- 4.3 Upon completion of the investigation, the compliance officer will file a report of his or her findings in the District office and will deliver a copy of said report to the alleged violator and to the complainant (if other than the board) in person or at their places of residence, or it will be sent to them by certified mail.

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**CHAPTER 5 - INSPECTION REPORT ALLEGING VIOLATION AND ALLEGED  
VIOLATOR'S ALTERNATIVE ACTIONS**

- 5.1 If the compliance officer finds that there is reasonable cause to believe that the alleged violator was at the time of inspection or was at the time complained of, in violation of District rules and regulations, said compliance officer's report will be accompanied by a formal notice of the alternative actions available to the alleged violator which will be as follows:
- 5.1.1 Consent to cease and desist from continuing or allowing the reoccurrence of such violation; or
  - 5.1.2 Request that a formal hearing be scheduled and conducted in accordance with the rules and regulations of the District.
- 5.2 If the compliance officer's report finds that a violation of these rules and regulations has not occurred the complainant will be notified of the alternatives available in the same manner as provided for the alleged violator. The complainant's alternatives are as follows:
- 5.2.1 Accept the compliance officer's findings that there has been no violation of these rules and regulations; or
  - 5.2.2 Request that a formal hearing be scheduled and conducted in accordance with the rules and regulations of the District.
- 5.3 The alleged violator or complainant will have ten (10) days (excluding Saturdays, Sundays and legal holidays), from the date that said report and notice is received by him or her to respond in writing indicating any actions intended.

**CHAPTER 6 - CONSENT TO CEASE AND DESIST**

- 6.1 If the alleged violator agrees under ¶ 5.1.1 of these rules and regulations, he or she must submit a schedule of compliance which must provide for the discontinuance and/or no reoccurrence of the violation.
- 6.2 For violations relating to improper irrigation runoff, such schedule of compliance must include the identification and description of all proposed procedures or measures to prevent control or abate improper irrigation runoff.
- 6.2.1 Such procedures or measures must include one or more of the following:
    - 6.2.1.1 irrigation scheduling using a District approved method;

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- 6.2.1.2 construction and utilization of runoff collection and/or retention systems such as furrow dikes, reuse pits or dugouts;
  - 6.2.1.3 conversion of furrow irrigation to sprinkler or subsurface drip irrigation;
  - 6.2.1.4 discontinue or alter operation of center pivot end gun or dump valve;
  - 6.2.1.5 conversion to rain fed; or
  - 6.2.1.6 execution and performance of an agreement in accordance with Chapter 11 of these rules and regulations.
- 6.3 For violations other than improper irrigation runoff, such schedule of compliance will include actions necessary to prevent the continuance or reoccurrence of said violations.
- 6.4 The alleged violator must agree to implement and abide by the terms of such schedule.

**CHAPTER 7 - COMPLIANCE ORDER**

- 7.1 When an alleged violator has consented to cease and desist in accordance with Chapter 5, paragraph 01.01, the compliance officer shall issue a compliance order to the alleged violator. Said order shall include the schedule of compliance and shall instruct the alleged violator that he or she shall permanently cease and desist from any reoccurrence the alleged violation.
- 7.2 If at any time subsequent to the issuance of the compliance order, following an investigation as provided in Chapter 4, the compliance officer believes that a violation has reoccurred he or she shall request a formal hearing.

**CHAPTER 8 - BOARD ACTION SUBSEQUENT TO REQUEST FOR HEARING**

- 8.1 When requested, in accordance with Chapter 5 or Chapter 7, the board, upon ten (10) days' notice to the persons affected, will hold a formal hearing.
- 8.2 If, following a hearing, the board determines that the alleged violator has violated these rules and regulations it will adopt an order directing said alleged violator to immediately cease and desist from all activities determined by the board to be violations, and specifying other actions deemed necessary and appropriate.
- 8.3 Said order will be transmitted to the alleged violator in person or by certified

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restricted mail.

**CHAPTER 9 - BOARD ACTION IF ALLEGED VIOLATOR FAILS TO RESPOND  
OR APPEAR**

- 9.1 When an alleged violator has been notified in accordance with Chapter 5 of these rules and regulations and such alleged violator has failed to respond thereunder or has failed to appear at a properly scheduled formal hearing, the board will review the complaint and the inspector's report as well as other pertinent information and issue such order or orders in accordance with these rules and regulations as are deemed appropriate.

**CHAPTER 10 - BOARD AUTHORIZATION TO INITIATE COURT ACTION**

- 10.1 The board may initiate appropriate legal actions in the district court of the county in which the violation has occurred whenever necessary to enforce any action or orders of the District in accordance with these rules and regulations.

**CHAPTER 11 - AGREEMENTS BETWEEN GROUNDWATER USERS**

- 11.1 A groundwater user whose irrigation runoff water is capable of being captured and utilized by another person in a manner which will prevent waste of such water may have such water excluded from the definition of improper irrigation runoff water by submitting to the District an agreement providing for such capture and utilization signed by all affected parties, on forms provided by the District.
- 11.2 When such agreement is approved by the District, it will indicate the District's concurrence that the groundwater user's irrigation runoff water is under adequate control.
- 11.3 Such agreement may be terminated by either party or by the District whenever it determines that such agreement no longer prevents or controls improper irrigation runoff water.
- 11.4 The party terminating the agreement must provide written notice to all other parties involved in the agreement.

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