

**CHAPTER 7 – ALLOCATION OF GROUND WATER FOR THE PUMPKIN CREEK BASIN
GROUND WATER MANAGEMENT SUBAREA**

7.1 Area Designation and Boundaries

7.1.1 The area subject to Chapter 7 of these rules and regulations is the Pumpkin Creek Basin Ground Water Management Subarea as defined in Order NPNRD-4.

7.2 Allocation of Ground Water for Irrigation Purposes

7.2.1 Allocation for Certified Irrigated Acres

7.2.1.1 The ground water allocation for each certified irrigated acre is thirty-six (36) acre-inches per certified irrigated acre per allocation period. The allocation period shall consist of three (3) consecutive water years beginning in Water Year 2012. The base allocation for each certified irrigated acre is twelve (12) acre-inches per certified irrigated acre per water year.

7.2.2 Transition from Water Year 2011 to the Allocation Period Encompassing Water Years 2012-2014

7.2.2.1 Any unused available water carried forward from Water Year 2011 on a certified irrigated tract, designated allocation unit (DAU) or pre-existing allocation unit (PAU) will be added to the total current allocation for that tract, DAU or PAU for the allocation period beginning in Water Year 2012.

7.2.2.1.1 If applicable, the carryforward from Water Year 2011 that will be added to the total current allocation for a certified irrigated tract, DAU, or PAU for the allocation period beginning in Water Year 2012 will be the lesser amount of the unused available water or six (6) acre-inches per certified irrigated acre, equivalent to fifty (50) percent of the allocation of twelve (12) acre-inches per certified irrigated acre for Water Year 2011, multiplied by the number of certified irrigated acres within the certified irrigated tract, DAU or PAU.

7.2.2.2 Any available water overdraft, available water overdraft penalty, well cap overdraft, well cap overdraft penalty and/or other penalties assessed for Water Year 2011 will be subtracted from the total current allocation for a certified irrigated tract, DAU or PAU for the allocation period beginning in Water Year 2012.

7.2.2.2.1 If a portion of the Water Year 2012 total current allocation was used during Water Year 2011 on a certified irrigated tract, that amount will be subtracted from the total current allocation for that certified irrigated tract for the allocation period beginning in Water Year 2012.

7.2.2.3 The additions and/or subtractions described in Rules 7.2.2.1 through 7.2.2.2, if any, along with the total current allocation, will equal the available water for the allocation period beginning in Water Year 2012 for a certified irrigated tract, DAU or PAU.

7.2.3 Pre-existing Allocation Units (PAUs)

7.2.3.1 The total current allocation for each certified irrigated tract within a PAU will be combined.

7.2.3.2 A PAU will only be designated in cases where it is not possible for the District to determine the amount of ground water applied to one or more certified irrigated tracts due to (1) a change in ownership of a certified irrigated tract(s) or a portion of a certified irrigated tract(s); (2)(a) a change in the configuration of regulated well(s) and/or (b) a change in the location of flow meter(s) measuring the withdrawal of ground water from regulated well(s) serving one or more certified irrigated tract(s).

7.2.3.3 A PAU will remain intact unless (1) there is a change in ownership of one or more of the certified irrigated tract(s) or portion of a certified irrigated tract(s) within a PAU; (2) one or more of the a certified irrigated tract(s) or portion of a certified irrigated tract(s) within the PAU is enrolled in a government program requiring cessation of ground water irrigation for the period of enrollment; or (3) there is a change (a) in the configuration of the regulated well(s) serving one or more of the certified irrigated tract(s) within the PAU and/or (b) in the location of the flow meter(s) measuring the withdrawal of ground water from such regulated well(s). If such change occurs, the PAU will be rescinded, and, if applicable, a new PAU containing the remaining certified irrigated tract(s) unaffected by such change will be designated.

7.2.3.3.1 The landowner must notify the District within sixty (60) days of a change in ownership of a certified irrigated tract(s) or a portion of a certified irrigated tract(s) within a PAU and/or a change in the configuration of the regulated well(s) serving one or more of the certified irrigated tract(s) within a PAU and/or the location of the flow meter(s) measuring the withdrawal of ground water from such regulated well(s).

7.2.3.4 If a PAU is rescinded by the District, the certification for each certified irrigated tract within the original PAU will also be rescinded and each tract will be certified according to the modified status of each tract.

7.2.3.5 If a PAU is rescinded by the District, the remaining available water in the PAU will be prorated to the separate certified irrigated tract(s) based on the amount of remaining available water and the number of certified irrigated acres in each certified irrigated tract, unless there is a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tract(s).

7.2.3.5.1 In the case of a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tract(s), the written agreement must be provided to the District within thirty (30) working days following the PAU rescission. Failure to do so will result in the available water being prorated pursuant to Rule 7.2.3.5.

7.2.4 Designated Allocation Units (DAUs)

7.2.4.1 All DAUs established prior to January 1, 2012, will remain intact unless (1) there is a change in ownership of any of the certified irrigated tracts or portion of a certified irrigated tract within a DAU or (2) a certified irrigated tract or portion of a certified irrigated tract within a DAU is enrolled in a government program requiring cessation of ground water irrigation for the period of enrollment in the program. At the time that the District is notified of such change or enrollment, the DAU will be rescinded.

7.2.4.1.1 The landowner of a DAU established prior to January 1, 2012, may relinquish such DAU by signing a form, provided by the District, by the end of the business day on May 15 of the water year in which the DAU is to be relinquished.

7.2.4.1.2 Any certified irrigated tracts that were within a DAU that was established prior to January 1, 2012, that has been relinquished by the landowner or rescinded by the District prior to the end of the current allocation period may be included in a new DAU, provided the provisions of Rule 7.2.3 are met.

7.2.4.2 Certified irrigated tracts and the corresponding available water for each tract may be combined into DAUs provided the following criteria are met:

7.2.4.2.1 All regulated wells and at least a portion of each certified irrigated tract to be included within the DAU must be within a floating square area measuring three (3) miles by three (3) miles.

7.2.4.2.2 The stream depletion percentage for each regulated well to be included in the DAU cannot vary by more than ten (10) percent from the stream depletion percentage of each of the other regulated well(s) to be included in the DAU.

7.2.4.2.3 Pre-existing allocation units may be included within a DAU.

7.2.4.2.4 The certified irrigated tracts and regulated wells to be included within the DAU are owned by the same person unless the certified irrigated tracts and regulated wells to be included within the DAU are under different ownership but have the same operator. In such cases, the operator and all landowners must sign the DAU application form in accordance with Rule 7.2.4.3.

7.2.4.3 In order to establish a DAU, the operator and/or landowner(s) must apply to the District, on forms provided by the District, by the end of the business day on May 15 of the water year in which the DAU is intended to be established.

7.2.4.4 If approved by the District, the DAU will remain in place until the end of the current allocation period, except for those DAUs established prior to January 1, 2012, unless rescinded by the District or relinquished by the landowner or, in the case of a DAU comprised of certified irrigated tracts under multiple ownerships, a minimum of one landowner.

7.2.4.4.1 The DAU will be rescinded by the District if a situation including, but not limited to, any of the following exists: (1) the ownership of a certified irrigated tract(s) or a portion of a certified irrigated tract(s) within the DAU changes; or (2) a certified irrigated tract(s) or portion of a certified irrigated tract(s) within the DAU is enrolled in a government program which requires cessation of ground water irrigation for the period of enrollment in the program.

7.2.4.4.1.1 The landowner(s) must notify the District within sixty (60) days of such a change in ownership or of such enrollment.

7.2.4.4.2 The landowner or, in the case of a DAU comprised of certified irrigated tracts under multiple ownerships, a minimum of one landowner of a DAU established during the current allocation period may relinquish such DAU by signing a form, provided by the District, by the end of the business day on May 15 of the water year in which the DAU is to be relinquished.

7.2.4.4.3 Any certified irrigated tracts within a DAU established during the current allocation period that has been relinquished by the landowner or, in the case of a DAU comprised of certified irrigated tracts under multiple ownerships, a minimum of one landowner or rescinded by the District prior to the end of the current allocation period may be included in a new DAU, provided the provisions of Rule 7.2.4.2 are met.

7.2.4.4.4 If a DAU is rescinded by the District or relinquished by the landowner or, in the case of a DAU comprised of certified irrigated tracts under multiple ownerships, a minimum of one landowner during the current allocation period, the remaining available water in the DAU will be prorated to the separate certified irrigated tracts based on the amount of remaining available water and the number of certified irrigated acres in each certified irrigated tract, unless there is a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tracts.

7.2.4.4.4.1 In the case of a written agreement between the affected landowners regarding the apportionment of the remaining available water within the DAU between the certified irrigated tracts during the current allocation period, the written agreement must be provided to the District within thirty (30) working days following the rescission or relinquishment of the DAU. Failure to do so will result in the available water being prorated pursuant to Rule 7.2.4.4.4.

7.2.4.5 If there is an available water overdraft for a DAU at the end of an allocation period, the amount of the available water overdraft plus the available water overdraft penalty and/or any other penalties will be prorated between the certified irrigated tracts based on the amount of the available water overdraft plus the available water overdraft penalty and/or any other penalties and the number of certified irrigated acres in each certified irrigated tract unless there is a written agreement between the affected landowners regarding the apportionment of the available water overdraft plus the available water overdraft penalty and/or any other penalties between the certified irrigated tracts.

7.2.4.5.1 In the case of a written agreement between affected landowners regarding the apportionment of the available water overdraft plus the available water overdraft penalty and/or any other penalties between the certified irrigated tracts, the written agreement must be provided to the District prior to March 1 of the water year immediately following the end of the allocation period. Failure to do so will result in the available water overdraft plus the available water overdraft penalty and/or any other penalties being prorated pursuant to Rule 7.2.4.5.

7.2.4.6 If there is unused available water in a DAU at the end of an allocation period, the lesser amount of the unused available water or twelve (12) acre-inches per certified irrigated acre multiplied by the number of certified irrigated acres within the DAU may be carried forward into the next allocation period. The amount of such carryforward that will be able to be used in the next allocation period will be prorated between the certified irrigated tracts based on the amount of the carryforward and the number of certified irrigated acres in each certified irrigated tract, unless there is a written agreement between the affected landowners regarding the apportionment of the carryforward between the certified irrigated tracts.

7.2.4.6.1 In the case of a written agreement between affected landowners regarding the apportionment of the carryforward between the certified irrigated tracts, the written agreement must be provided to the District prior to March 1 of the water year immediately

following the end of the allocation period. Failure to do so will result in the carryforward being prorated pursuant to Rule 7.2.4.6.

7.2.5 Allocation Provisions

7.2.5.1 Certified irrigated acres will not receive an allocation unless a flow meter has been installed in accordance with Chapter 4 of these rules and regulations and such acres are physically capable of being supplied ground water through an irrigation system.

7.2.5.2 If the amount of available water for a certified irrigated tract, PAU or DAU is equal to or less than zero, ground water cannot be applied to such certified irrigated tract, PAU or DAU until such time as the amount of available water is greater than zero.

7.2.5.3 In the event of an available water overdraft for a PAU or a certified irrigated tract, the District shall reduce the following allocation period's total current allocation for that certified irrigated tract or PAU by the amount of the available water overdraft plus the amount of the available water overdraft penalty.

7.2.5.4 If there is unused available water in a PAU or certified irrigated tract at the end of an allocation period, the lesser amount of the unused available water or twelve (12) acre-inches per certified irrigated acre multiplied by the number of certified irrigated acres within the certified irrigated tract or PAU may be carried forward and added to the total current allocation for the next allocation period.

7.2.5.5 If a special circumstance replacement well is constructed pursuant to Rule 1.4.2.2, the remaining available water for the original certification will be prorated to the severed certified irrigated tract(s) and the remaining certified irrigated tract(s) based on the amount of remaining available water and the number of certified irrigated acres in each certified irrigated tract unless there is a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tracts.

7.2.5.5.1 In the case of a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tracts, the written agreement must be provided to the District at least thirty (30) working days prior to the beginning of the next water year. Failure to do so will result in the available water being prorated pursuant to Rule 7.2.5.5.

7.2.6 Acres Enrolled in Government Program(s)

7.2.6.1 Certified irrigated acres which are not being irrigated because they are enrolled in a government program(s), such as the Conservation Reserve Program (CRP), Conservation Reserve Enhancement Program (CREP), Environmental Quality Incentive Program (EQIP), or others, which requires participants to set aside crop land for other uses or otherwise remove such land from crop production shall not receive an allocation while those certified irrigated acres are enrolled in such program.

7.2.6.1.1 The regulated well(s) which serve any certified irrigated acres that are or will be enrolled in such program(s) may be used to provide ground water for the purpose of establishing a vegetative cover, pursuant to program guidelines for use of water.

7.2.6.1.2 If, prior to enrollment in such program(s), there is any remaining available water for the certified irrigated tract(s) or portion of certified irrigated tract(s), the remaining available water will be rescinded.

7.2.6.1.2.1 If, prior to enrollment in such program(s), the certified irrigated tract(s) or portion of certified irrigated tract(s) to be enrolled are part of a PAU or DAU, the PAU or DAU will be rescinded. Any remaining available water in the PAU or DAU will be prorated to the separate certified irrigated tract(s) based on the amount of remaining available water and the number of certified irrigated acres in each certified irrigated tract. The prorated portion of the remaining available water for the enrolled certified irrigated tract(s) or portion of certified irrigated tract(s) will be rescinded. The prorated portion of the remaining available water for the certified irrigated tract(s) not enrolled in the program(s) will remain prorated unless there is a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tract(s) which will not be enrolled in the program(s).

7.2.6.1.2.1.1 In the case of a written agreement between affected landowners regarding the apportionment of the remaining available water within the PAU or DAU between the certified irrigated tracts not enrolled in the program(s), the written agreement must be provided to the District at least thirty (30) working days prior to the beginning of the next water year. Failure to do so will result in the available water being prorated pursuant to Rule 7.2.6.1.2.1.

7.2.6.2 The landowner is responsible for notifying the District when certified irrigated acres are enrolled in or removed from such program(s). The District will not grant an allocation for any certified irrigated acres removed from such a program(s) unless the District receives written notification, on forms provided by the District, of the removal of the acres from the program(s). Prior to the commencement of irrigation on such certified irrigated acres, the acres must be granted an allocation.

7.2.6.3 If certified irrigated acres are removed from such program(s), or if the program contract(s) is terminated or expires at any time during an allocation period, then, if eligible, the amount of the allocation that will be granted to such certified irrigated acres will be equal to the base allocation for each water year left in the allocation period.

7.3 Allocation of Ground Water for Livestock Operations

7.3.1 The ground water allocation for each certified livestock operation is twenty (20) gallons per day per animal unit per water year.

7.4 Allocation of Ground Water for Other Uses

7.4.1 To receive an annual allocation for the current water year for certified uses other than irrigation and livestock operations, the ground water user must submit an application each year on or before March 1 to the District on forms provided by the District. The application must receive approval from the Board before the ground water use may begin.

7.4.1.1 In considering whether to approve such applications, the Board shall consider (1) the historical ground water use by the applicant; (2) relevant information about the ground water use provided by the applicant; (3) information from generally recognized experts and authorities in the relevant field; (4) information from governing or regulatory bodies and organizations in the

relevant field; and (5) other information which the Board considers relevant, reliable and unbiased.

Chapter 7 – Allocation of Ground Water for the Pumpkin Creek Basin Ground Water Management Subarea (formerly known as (1) Section D: Rules and Regulations for the Pumpkin Creek Basin Groundwater Management Sub-Area and Rules and (2) Regulations for the Pumpkin Creek Basin Groundwater Management Sub-Area) was adopted by Order No. NPNRD-4 on February 15, 2001, effective on March 21, 2001; amended by Order No. NPNRD-5, effective December 19, 2002; amended by Order No. NPNRD-6, effective March 12, 2004; amended by Order No. NPNRD-9, effective March 9, 2006; amended by Order No. NPNRD-16, effective January 12, 2009; amended by Order No. 20, effective April 9, 2012; amended by Order No. 22, effective May 11, 2013.