INTEGRATED MANAGEMENT PLAN

Jointly Developed by the
South Platte Natural Resources District
and the
Nebraska Department of Natural Resources

South Platte Natural Resources District
P.O. Box 294, 551 Parkland Drive
Sidney, Nebraska 69162-0294
Telephone: 308-254-2377
Fax: 308-254-2783
Website: http://www.spnrd.org

Nebraska Department of Natural Resources
P.O. Box 94676, 301 Centennial Mall South
Lincoln, Nebraska 68509-4676
Telephone: 402-471-2363
Fax: 402-471-2900
Website: http://www.dnr.ne.gov

Approved by the Board of Directors: June 20, 2008
Approved by the Director of NDNR: June 20, 2008

Amended by the Board of Directors: August 11, 2009
Amended by the Director of NDNR: August 13, 2009

Effective date of the amended changes: September 14, 2009

TABLE OF CONTENTS

MAPS

INTEGRATED MANAGEMENT PLAN

Jointly Developed by the
South Platte Natural Resources District
and the
Nebraska Department of Natural Resources

1. AUTHORITY

This integrated management plan was prepared by the Board of Directors of the South Platte Natural Resources District (SPNRD), the SPNRD Integrated Management Plan Work Group, and the Nebraska Department of Natural Resources in accordance with Neb. Rev. Stat. §§ 46-715, 46-716, 46-717, 46-718, and 46-720.

2. BACKGROUND

The Nebraska Legislature enacted laws in 1969 to combine one-hundred and fifty-four (154) single purpose quasi-governmental entities dealing with soil and water conservation into twenty-four (24) multipurpose Natural Resources Districts (NRDs). A merger of two NRDs in 1989 reduced that number to twenty-three (23) NRDs. The legislation provided the NRDs with various responsibilities related to natural resources. The Board of Directors for each NRD is elected by local voters, serve four (4) year terms, and govern the NRD activities.

Natural Resources Districts became operational in 1972 and began administering a variety of conservation programs relating to natural resources.

NRDs have the authority to levy a local property tax to fund their projects and programs. By cooperating with, combining, and administering funds of other state, local and federal agencies, NRDs provide a wide variety of services to protect Nebraska's natural resources.

The South Platte Natural Resources District is geographically located in the southern portion of Nebraska's Panhandle. The District is comprised of an area of approximately 1,654,300 acres, which is three percent of the state's land base. The District consists of all of Cheyenne, Deuel and Kimball counties.

The District is bordered by Wyoming on the west and Colorado on the south and is located on the plains of the Great Plains Physiographic Province. Two distinct regions characterize the District. The "Upland Plains" make up the largest portion of the District. These plains are moderately rolling and are cut by the valley of the Lodgepole Creek and the South Platte River, creating the "Platte Valley Lowlands".

Lodgepole Creek is the predominant watercourse in the District. Lodgepole Creek begins in the Sherman Mountains of southeastern Wyoming and reaches almost the entire length of the District, entering the South Platte River near Ovid, Colorado. Lodgepole Creek is an intermittent creek. The South Platte River crosses the southeastern corner of the District in Deuel County. Rush Creek is the principal watershed in northern Cheyenne County and drains into the North

Platte River. Many of the tributaries to Lodgepole Creek and Rush Creek are ephemeral streams that flow only for a short period after high intensity storms.

The District has many water-bearing formations. Among these formations, only two, the Brule Formation of the White River Group and the Ogallala Group are principal aquifers.

The Brule Formation is considered a major aquifer because of its ability to yield water in usable quantities where the Formation is fractured, and although not entirely reliable, it is the best source of water in locations where the Ogallala Group is either absent or unsaturated.

The Ogallala Group is found throughout the District. Where the Ogallala is saturated, it is the most reliable source of water of the two major aquifers. Most of the District north of Lodgepole Creek and portions of southwest Kimball County lie in an area where the Brule is heavily eroded, allowing for the formation of thick Ogallala Group deposits below the water table, providing for the best source of water in the District.

The youngest aquifer material in the District is that laid down by the South Platte River, Lodgepole Creek, and the ephemeral drainages from materials brought in by the action of water. The alluvium formation of these water courses is considered a secondary aquifer. Although there is water in some of the alluvial deposits, the most important aspect of the alluvium is to recharge the aquifers of Brule and Ogallala formations.

Recharge to the aquifers in the District is quickest in the alluvium and Brule aquifer. Generally, this is due to the lesser depths to the water table than in the Ogallala. Recharge is primarily the result of precipitation events.

The climate throughout the District is primarily influenced by relatively light precipitation (16 to 18 inches annually), a high rate of evaporation, and a wide range of temperatures. The winters are cold and the summers are short and hot. About 75% of the precipitation is received as rain between April and September. Seven years of drought only exacerbates what is becoming increasingly clear: demand for water is greater than the supply and therefore the supply of water within the District is limited.

The contributions of agribusiness to the economy are substantial. The largest land use in the District is non-irrigated cropland, followed by rangeland, and finally irrigated cropland. The District consists of approximately (1) 546,921 acres of non-irrigated cropland, (2) 352,851 acres of fallow/idle cropland, (3) 473,022 acres of range/nonagricultural uses, (4) 147,206 acres of CRP (CRP acres are a separate category because the acres are still considered cropland), and (5) 134,000 acres of irrigated cropland.

Crops consist of alfalfa, beets, corn, dry beans, wheat, sunflower, millet and other small grains. The entire economy of the District will suffer if there is not enough water to sustain irrigation. Businesses associated with agriculture employ many residents within the District. These businesses include the manufacture and sales of farm and livestock equipment, growing produce, sale of fertilizer and the storage and sales of grain.

Residents that are employed outside of agribusiness are primarily employed in businesses involving retail sales of durable goods, the service industry, governmental agencies, the exploration and transportation of petroleum, the transportation of goods, real estate, insurance and finance.

Both ground water and surface water are used for irrigation within the District. The Western Irrigation Canal in southeastern Deuel County supplies most of the surface water for irrigation. The Western Irrigation Canal diverts water from the South Platte River approximately one mile downstream from the Nebraska-Colorado border. There are also some surface water diversions from Lodgepole Creek.

The supply of ground water is vital to the economy of the District. The sole source of supply for domestic, municipal, and industrial use comes from ground water. Water for livestock comes from both ground water and surface water. Water quantity and quality are issues which impact the use of both surface water and ground water.

As of July 2007, there are about 1,303 irrigation wells registered in the South Platte Natural Resources District with about 593 in Cheyenne County, 310 in Deuel County, and 400 in Kimball County. The depth to ground water is variable because of the differences in the surface topography and the geology throughout the District. In general, water is found closer to the surface in the valleys (Lodgepole Creek, South Platte River, and Sidney Draw, and other ephemeral drainages) than on the surrounding tableland. Generally, the depth to water is less where the Brule and alluvium are present as the major aquifer, than in areas where the Ogallala is the major aquifer. The depth to water in the District varies from zero feet when the Lodgepole Creek and the South Platte River are flowing, to over 300 feet in southeast Kimball County and along the northern edge of Cheyenne County.

The critical water supply issues in the District include declines (1) in the Brule Formation west of the Oliver Reservoir to the Nebraska/Wyoming state line, (2) in a larger area west of the City of Sidney, and (3) in a reach of the Lodgepole Creek south of Chappell to the Nebraska/Colorado state line. Gradual declines also exist in ground water in most of the northern Cheyenne and Kimball tableland areas. In these areas, because of the depth to ground water, recharge occurs very slowly. If water supply becomes an issue, any further corrective measures would be severe if management of the aquifer is delayed.

The South Platte Natural Resources District has taken significant steps to address the water supply and demand issues, which have been exacerbated by the recent drought. On November 7, 2002, the SPNRD Board was one of the first NRDs, under the authority of the Nebraska Ground Water Management and Protection Act, to place a moratorium on permits for new wells in the Lodgepole Creek Integrated Ground Water Management Subarea. In 2004, the Board, working with the ground water advisory committees and the public, ordered a temporary suspension of well construction for all of the South Platte NRD, except for the Lodgepole Creek Integrated Ground Water Management Subarea. This action was later repealed because of the passage of LB 962 (2004). From 2002 thru 2006, the District completed certification of about 134,000 irrigated acres, which were irrigated from 1,303 registered wells. In November 2006, the District adopted amendments to the District's Districtwide Ground Water Management Area Rules and

Regulations incorporating allocation, transfer, and pooling procedures for irrigation uses. In 2007, the District organized a Variance Advisory Group and identified certified irrigated tracts in the Lodgepole Creek Integrated Ground Water Management Subarea. The District will continue to monitor the ground water quantity within the District and make the appropriate adjustments to the Districtwide Ground Water Management Area Rules and Regulations as necessary.

LB 962 was adopted by the legislature effective July 16, 2004, which amended the Nebraska Ground Water Management and Protection Act to include a more proactive approach to the State's integrated management of ground and surface water. On September 15, 2004, the Nebraska Department of Natural Resources designated a portion of the South Platte NRD as overappropriated. In addition, on September 30, 2004, the Nebraska Department of Natural Resources determined that the entire South Platte NRD was fully appropriated.

The criteria used to make the determination of hydrologically connected ground water and surface water for purposes of the overappropriated designation is as follows: 1) a certain area is identified within which the total amount pumped from a well for a period of 40 years will deplete the flow of the South Platte River, North Platte River, Platte River or a base flow tributary thereof by at least 28% (referred to as the "28/40 area"), and 2) to the extent not included as a result of the 28/40 area, the integrated ground water management subarea of the Lodgepole Creek subbasin. The 28/40 area is also relevant for management purposes in terms of the Platte River Recovery and Implementation Program, which is one of the criteria for designating an area as being overappropriated. The New Depletion Plan prepared as a result of the Platte River Recovery and Implementation Program, requires that the NRDs responsible for its implementation establish ground water management areas that cover all geographic area 1) within the Platte River Basin and 2) within the 28/40 area. The second item is important because the Cooperative Hydrology Study (COHYST) Model has not been completed for all parts of Nebraska. In those areas, data complied by NRDs were relied upon to determine the areas to be considered hydrologically connected for the relevant management purposes.

As a result of the fully appropriated and overappropriated designations made by the Department of Natural Resources (the "Department") several limitations were placed on the use of both ground water and surface water within the geographical area encompassing the District:

1. Stays were placed on new water uses. The stays transitioned into moratoriums on large capacity wells and expansion of irrigated acres as described and adopted in this plan.

2. The District and the Department jointly developed recommendations for the integrated management plan (IMP) that are required to sustain a balance between water uses and water supplies so that the economic viability, social and environmental health, safety and welfare of the river basin, subbasin, or reach can be achieved and maintained for both the near term and the long term. This was accomplished by working with the SPNRD/NDNR Integrated Management Planning Work Group. Members selected from the District's already existing five ground water advisory committees formed the SPNRD/NDNR Integrated Management Plan Work Group. Other members were added to the group to be consistent with the consultation and collaboration requirements in Neb.

Rev. Stat. § 46-715. The Integrated Management Plan Work Group held its first meeting August 26, 2004.

3. In areas that were designated as overappropriated, a Basin-Wide Plan was developed and approved by the Overappropriated Basin-Wide Group on December 16, 2009 and was eventually adopted by the South Platte NRD on August 11, 2009 with an effective date of September 11, 2009. The NDNR also issued an Order that the Basin-Wide Plan for Joint Integrated Water Resources Management of Overappropriated Portions of the Platte River Basin, Nebraska be adopted with an effective date of September 11, 2009. Four-members from the SPNRD/NDNR Work Group represented the SPNRD on the Overappropriated Basin-Wide Group. The first meeting held by this group was February 18, 2005. The Overappropriated Basin-Wide Plan was developed using the consultation and collaboration process described in Neb. Rev. Stat. § 46-715(4)(b) and was developed concurrently with the development of the integrated management plan required pursuant to Neb. Rev. Stat. § 46-715(1)(2).

State statute requires that the impact of streamflow depletions to surface water appropriations and water wells constructed in aquifers dependent on streamflow due to water use initiated after July 1, 1997 be addressed within ten (10) years of the adoption of an integrated management plan and requires that the overappropriated areas be returned to fully appropriated in an incremental manner as described in subsection (d) of Neb. Rev. Stat. § 46-715(4). In order to accomplish this requirement, this plan incorporates the steps for an incremental approach to achieve the goals and objectives identified in this plan as required under subdivision (2)(a) of Neb. Rev. Stat. § 46-715 of the Nebraska Ground Water Management and Protection Act.

Initially, the SPNRD and the NDNR jointly adopted the IMP on June 20, 2008, which became effective on July 20, 2008. At that time, Rule 9 was incomplete because the overappropriated Basin-Wide Plan had not been adopted. Subsequently, as progress continued on the Basin-Wide Plan, the District amended Rule 9 to remain consistent with the Basin-Wide Plan. The District held a public hearing on the proposed amendments to Rule 9 in this Integrated Management Plan on June 16, 2009, and the Board of Directors adopted the amended Rule 9 in this Integrated Management Plan on August 11, 2009. The effective date of the amended changes to Rule 9 of the IMP was September 14, 2009. Likewise, the NDNR issued an Order dated August 13, 2009 that the Integrated Management Plan for the South Platte Natural Resources District be adopted with an effective date of September 14, 2009.

3. GOAL AND OBJECTIVES

Goal

The goal of the South Platte Natural Resources District Integrated Management Plan is to work together for the greater good of all citizens of the South Platte Natural Resources District to cooperatively develop and implement a local Integrated Surface Water/Ground Water Plan that has an acceptable degree of certainty of 1) maintaining a sufficient water supply for use by present and future generations, 2) maintaining, enhancing and protecting the region's agricultural

economy and the viability of its cities and villages and 3) promoting the growth of economic activities while seeking to avoid adverse impacts on the environment.

Objectives

To accomplish this goal, the plan will:

1. Conduct data collection and analysis, including: 1) information on current water uses, 2) availability of the water resources in the region, 3) determination of the level of sustainable use, and 4) develop/utilize appropriate scientific and technical tools to guide decision making.
2. Provide education to explain why the District is developing the IMP and how it will help to sustain the water supplies of the region.

3. Encourage the use of practices that conserve water in the region's aquifers.

4. Work with adjacent states and NRDs to minimize the adverse impacts of water uses in those areas on the SPNRD and to minimize the impacts from water uses within the SPNRD on other NRDs.

5. Streamline and make permit application processes more uniform and predictable.

6. Provide information and assistance for the transfer of water uses among counties, cities, villages and producers within the State.

In so doing, the IMP must recognize that it took a long time for the current conditions to develop and a long time may be required before the implemented plan can be successful. If successful, it is expected that the implementation of the IMP will maintain the ability of local groups to develop and manage the water resources on which their quality of life depends.

4. MAP AND MANAGEMENT AREA BOUNDARIES

Refer to Map 1. The area subject to this integrated management plan is the entire geographic area of the South Platte NRD including the area determined to be fully appropriated and the area designated as overappropriated within the boundaries of the South Platte NRD. The map also indicates by red boundaries the subarea divisions within the District.

5. DEFINITIONS

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

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

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

5.4 Application for a Transfer Permit - shall mean an application on a form supplied by the Department and/or the District for the physical transfer of ground water, the change in type of use of ground water, the addition of a type of use of ground water to the well, or the transfer of certified acres.

5.5 Board or Board of Directors - shall mean the Board of Directors of the South Platte Natural Resources District.

5.6 Certified Irrigated Acre - shall mean any acre of land within a certified irrigated tract with a demonstrable or proven history of irrigation, as provided in these rules and regulations.

5.7 Certified Irrigated Tract - shall mean a specific area(s) of land that contains certified irrigated acres in connection with a particular water source or sources that are physically connected.

5.8 Community Water System - shall mean a public water system that 1) serves at least fifteen (15) service connections used by year-round residents of the area served by the system or 2) regularly serves at least twenty-five (25) year-round residents.

5.9 Compliance Officer - shall mean an employee or agent of the District authorized by the District Manager to perform the functions assigned to him or her by these rules and regulations.

5.10 Consumptive Use - shall mean the amount of water that is consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use is lawfully made (e.g. that portion of the irrigation water applied to a crop that is lost to the system due to evapotranspiration).

5.11 Controls - shall mean any requirement, obligation, duty, or restriction placed upon a ground water user, landowner, or operator, who owns, uses, or controls land within the District.

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

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

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

5.15 Director - shall mean the Director of the Nebraska Department of Natural Resources.

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

5.17 First Increment - shall mean the first ten (10) years following initial adoption of the integrated management plan.

5.18 Formal Notice - shall mean written notice provided from the District to an Alleged Violator of an alleged violation of the Integrated Management Area Rules and Regulations.

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

5.20 Governmental Uses - shall mean any ground water supplied to a governmental entity, including school districts and other political subdivisions, state agencies, or federal agencies.

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

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

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

5.24 Integrated Management Area - shall mean any area so designated by the District pursuant to Neb. Rev. Stat. § 46-718.

5.25 Integrated Management Plan or IMP - shall mean a ground water and surface water management plan developed by the District and the Department pursuant to Neb. Rev. Stat. §§ 46-715 through 46-718.

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

5.27 Irrigation System - shall mean the necessary appurtenances to a water well or wells to convey irrigation water to a certified irrigated tract or tracts. This includes, but is not limited to, the pump and any combination of set-move, solid-set, traveler, center pivot, or linear move

sprinkler system(s), subsurface drip system, and gravity, furrow, and border or flood irrigation utilizing water from a ditch, canal, reuse pit, ground water excavation pit, or pipe.

5.28 Land where Ground Water is Withdrawn and Overlying Land - the term "overlying land" shall have the same meaning as "land where the ground water is withdrawn" and shall mean, for the purposes of Rule 7.3, the tract of land where the well withdrawing the ground water is or will be located and any other tract of land that 1) is owned or controlled by the same person or persons as the tract of land where such well is or will be located, 2) is not completely separated from such tract of land by land owned by any other person, and 3) is located in the same government surveyed section as such well is located or will be located in or in a government surveyed section adjacent to the section where such well is or will be located.

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

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

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

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

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

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

5.35 Permanent Population of a Municipality- for purposes of Rules 7.4.3.3.3, 7.4.3.4.2, and 7.4.3.10, shall mean the most current estimated annual census population data for persons living within the boundaries of a municipality and those persons provided with water service by the municipality outside of its corporate limits.

5.36 Permit - shall mean an approved document that must be obtained from the Department and/or the District for a transfer permit or from the District for a large user permit.

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

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

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

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

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

5.41 Subarea Divisions - shall mean the allocation subareas as defined in the SPNRD Districtwide Ground Water Management Area Rules and Regulations and shown on Map 1.

5.42 Subsequent Increment - shall mean the ten (10) year period following the first increment or the ten (10) year period following the adoption of any subsequent increment of the integrated management plan.

5.43 Surface Irrigation - shall mean irrigation by gravity, furrow, or flood 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.

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

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

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

5.47 Water Bank - shall mean a procedure for tracking additions and/or reductions in ground water consumptive use within the District in accordance with Rule 10.2.

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

5.49 Other Types of Water Wells:

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

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

5.49.3 Domestic Water Well - shall mean a water well, designed and constructed to pump fifty (50) gallons per minute or less, used by a person or by a family unit or household for normal household uses and for the irrigation of lands not exceeding two (2) acres in area for the growing of gardens, orchards, and lawns, and keeping domestic animals. Domestic water wells are exempt from the application of these rules and regulations.

5.49.4 Illegal Water Well - shall mean 1) any water well operated or constructed without or in violation of a permit required by the Nebraska Ground Water Management and Protection Act, 2) any water well not in compliance with the rules and regulations adopted and promulgated pursuant to the Act, 3) any water well not properly registered in accordance with Neb. Rev. Stat. §§ 46-602 to 46-604, 4) any water well not in compliance with any other applicable laws of the State of Nebraska or with rules and regulations adopted and promulgated pursuant to such laws, or 5) any water well which has not been properly decommissioned and which meets any of the following conditions:

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

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

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

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

5.49.4.5 The water well poses a health or safety hazard;

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

5.49.4.7 The water well has been constructed after October 1, 1986, and such well is not in compliance with the standards developed under the Water Well Standards and Contractors' Licensing Act.

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

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

5.49.5.1 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;

5.49.5.2 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;
5.49.5.3 The pump and pumping column have been removed;
5.49.5.4 All entrances and discharge piping to the water well are effectively sealed to prevent the entrance of contaminants; and
5.49.5.5 The water well is marked so as to be easily visible and located and is labeled or otherwise marked so as to be easily identified as a water well and the area surrounding the water well is kept clear of brush, debris, and waste material.

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

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

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

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

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

5.49.11 Replacement Water Well - shall mean a water well which is constructed to provide water for the same purpose as the original water well and is operating in accordance with any applicable rules and regulations of the District and with any applicable permit from the Department and, if the purpose is for irrigation, the replacement water well delivers water to the same tract of land served by the original water well and 1) replaces a decommissioned water well within one hundred eighty (180) days after the decommissioning of the original water well, 2) replaces a water well that has not been decommissioned but will not be used after construction of the new water well and the original water well will be decommissioned within one hundred eighty (180) days after such construction, except that in the case of a municipal water well, the original municipal water well may be used after construction of the new water well but shall be decommissioned within one (1) year after completion of the replacement water

well, or 3) the original water well will continue to be used but will be modified and equipped within one hundred eighty (180) days after such construction of the replacement water well to pump fifty (50) gallons per minute or less and will be used only for range livestock, monitoring, observation, or any other nonconsumptive or de minimis use and is approved by the District on a case-by-case basis. In addition, the following requirements must be met: 1) such replacement well is not designed or constructed to pump more water than the well it replaces, 2) no more than one (1) replacement well may be used to replace the original well, 3) no replacement irrigation well may be installed for any well irrigating acres that have not been certified according to Rule 7.2, and 4) any replacement well shall be deemed to irrigate the same number of certified irrigated acres as the well it replaces.

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

6. GENERAL PROVISIONS AND PROCEDURES FOR ENFORCEMENT

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

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

6.1.1.1 To enforce any of the provisions of the Act or of orders or permits issued pursuant to the Act or these rules and regulations;

6.1.1.2 To initiate suits to enforce the provisions of the Act or of orders or permits issued pursuant to the Act or these rules and regulations;

6.1.1.3 To restrain the construction or operation of an illegal well as defined in these rules and regulations or the withdrawal or use of water from such illegal well; and

6.1.1.4 Operation of an irrigation system in the Integrated Management Area in violation of the controls provided for in these rules and regulations.

6.1.2 In addition to the authority set forth in Neb. Rev. Stat. §§ 46-745 and 46-746, the District may enforce the Integrated Management Area Rules and Regulations through voluntary compliance and/or through a formal enforcement action.

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

alleged violation pursuant to these rules and regulations. Upon completion of the investigation of records or field activities, the compliance officer shall file a written report of his or her findings in the District office and shall deliver a copy of the report to the ground water user, landowner, or operator.

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

6.3.1 Agree with and accept as true and correct the compliance officer's findings that the alleged violation(s) has in fact occurred or is occurring and consent in writing to cease and desist from continuing or allowing the recurrence of such violation; and submit a schedule for corrective action pursuant to Rule 6.4; or

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

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

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

6.5.1 The District within its sole discretion shall determine whether the actions agreed to by the ground water user, landowner, or operator will, when implemented, bring the ground water user, landowner, or operator into compliance with these rules and regulations. If the District determines that the proposed actions of the ground water user, landowner, or operator are adequate and will prevent future violations within a reasonable time period, such action or plan will be approved and the District shall notify the ground water user, landowner, or operator of the District's approval and provide a schedule of compliance to complete the plan.

6.5.2 If the District within its sole discretion determines that implementation of the proposed plan or schedule of compliance would be inadequate to prevent further violation of the rules and regulations, the District shall inform the ground water user, landowner, or operator of its disapproval and shall make proposed changes or additions to the plan to obtain conformance with these rules and regulations. An alleged violator

shall have five (5) days (excluding Saturdays, Sundays, and legal holidays) from the receipt of the proposed changes from the District to consent to such additions or changes, agree to negotiate, or reject such changes and request a formal hearing.

6.6 Formal Hearing - If voluntary measures cannot be agreed upon between the District and the ground water user, landowner, or operator, or if the ground water user, landowner, or operator rejects the findings of the compliance officer's report set forth in Rule 6.3.2, then the ground water user, landowner, or operator shall be given an opportunity to contest the investigation report, or the schedule of compliance required by the District, at a Board hearing or formal public hearing to be held no sooner than fifteen (15) days and not more than forty-five (45) days after receipt of the initial notice provided pursuant to Rule 6.3. Notice of the hearing shall be provided to the ground water user, landowner, or operator and any other necessary person. The District's rules for formal hearings shall govern the conduct of all such hearings. The ground water user, landowner, or operator shall be further notified that if he or she fails to respond to any notice and fails to appear at the scheduled hearing, the Board shall proceed to make a final determination as to the alleged violation of these rules and regulations and shall determine if a formal cease and desist order shall be issued and enforced against the ground water user, landowner, or operator.

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

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

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

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

7. GROUND WATER CONTROLS - These controls apply to the fully and overappropriated areas of the District.

7.1 Moratorium on Well Construction Permits and on New or Expanded Uses - Commencing on the effective date of these rules and regulations and except as provided hereinafter, no permits to

construct a new water well in the Integrated Management Area will be issued unless a variance is granted. In addition, the expansion of irrigated acres or increases in the consumptive use of ground water withdrawals from water wells used for irrigation or other beneficial purposes except for domestic and range livestock purposes is prohibited unless a variance is granted or as provided by Neb. Rev. Stat. § 46-740.

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

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

7.2.1.1 Location of each irrigated tract of land by legal description to the nearest quarter section;

7.2.1.2 An aerial photo or map of the tract of land;

7.2.1.3 The size of each irrigated tract of land, in acres;

7.2.1.4 The registration number(s) of any well(s) used to irrigate each tract of land;

7.2.1.5 Identification of any sources of irrigation water other than ground water;

7.2.1.6 Historical documentation of irrigated acres;

7.2.1.7 If the land is within the fully appropriated area or the South Platte Valley Subarea, documentation of irrigated acres as of July 1, 1997, and documentation of irrigated acres as of December 31, 2004;

7.2.1.8 If the land is within the overappropriated area excluding the South Platte Valley Subarea, documentation of irrigated acres up to crop year 2002.

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

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

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

7.2.3.1.1 Information submitted with the application;

7.2.3.1.2 Records of the U.S. Department of Agriculture;

7.2.3.1.3 Records of the county assessor;

7.2.3.1.4 Evidence submitted by the applicant or the District's staff; and
7.2.3.1.5 Any other information deemed relevant by the District.

7.2.3.2 The District may request additional information from an applicant. Certification will be based on the size and location of an irrigated tract of land, or on the amount and purpose of other uses in calendar year 2004 if the land is within the fully appropriated area or the South Platte Valley Subarea (as shown on Map 1). If the land is in the overappropriated area (as shown on Map 2) excluding the South Platte Valley Subarea the certification will be based on those acres irrigated up to the crop year 2002. Applicants who believe that information for the year 2002 or 2004 does not reflect customary conditions for that ground water use may produce evidence to support their belief. The District will consider this evidence in its determination whether to certify the tract.

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

7.2.4 Modification of Certified Irrigated Acres or Certified Irrigated Tracts - A ground water user, landowner, or operator of land that intends to make changes to certified irrigated acres or certified irrigated tracts subsequent to the effective date of the Integrated Management Area may make an application to modify the certified irrigated acres or certified irrigated tracts. Such application shall be made on forms provided by the District in the same manner as described in 7.2.1 and 7.2.3 of these rules and regulations.

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

7.3 Transfers

7.3.1 Physical Transfer of Ground Water Off Overlying Land Located in the District; Permit Required - Except as provided in Rule 7.3.2 below, any person who withdraws ground water from a well located within the District and physically transfers or intends to physically transfer such water off the overlying land shall apply for a transfer permit on forms provided by the District and before commencing the transfer, be granted a transfer permit.

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

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

7.3.1.3 Changes in Certified Irrigated Tracts or Certified Irrigated Acres - Whenever the location of certified irrigated tracts or number of certified irrigated acres change as a result of the physical transfer of ground water off the land where water is withdrawn, pursuant to Rule 7.3.1, the landowner or person in control of certified irrigated tracts or certified irrigated acres shall notify the District in writing of such change within thirty (30) days of the initiation of the transfer.

7.3.2 Exceptions to Rule 7.3.1 - No transfer permit shall be required pursuant to Rule 7.3.1 if the withdrawal and physical transfer of ground water complies with any one or more of the following exceptions; provided however, that notice of such transfer shall be given to the District within thirty (30) days of the commencement of such transfer:

7.3.2.1 The withdrawal and transfer of ground water was begun prior to the effective date of Rule 7.3.1 and was at that time in compliance with all applicable District rules and regulations and all applicable state statutes and regulations.

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

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

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

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

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

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

7.3.3.1 No change in the type of use of ground water shall be approved unless such change results in no increase in the historical consumptive use or an offset is provided for any increase in historical consumptive use of the ground water to be transferred. If a type of use of ground water is added to the well, the transfer

permit will not be approved unless there is not an increase in historical consumptive use or an offset is provided for any increase in historical consumptive use.

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

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

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

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

7.3.4 Transfer of Certified Acres

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

7.3.4.1.1 All such transfers must be within county lines and within that portion of the subarea division within the county;

7.3.4.1.2 No such transfers shall be allowed between subarea divisions; and

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

7.3.4.2 Unless the Board approves a variance, transfers of certified irrigated acres are prohibited until 1) three (3) irrigation seasons following installation of a flow meter on the affected well (as per SPNRD Districtwide Ground Water Management Area Rules and Regulations) have been completed in order to provide irrigation history, and 2) an allocation system has been implemented (as per SPNRD Districtwide Ground Water Management Area Rules and Regulations).

7.3.4.3 In order to transfer one hundred percent (100%) of the certified irrigated acres, at least sixty percent (60%) or more of the allocation must have been used during the allocation period (as per SPNRD Districtwide Ground Water Management Area Rules and Regulations), and proof of such use must accompany the application submitted to the Board.

7.3.4.4 Transfers of less than one hundred percent (100%) of the certified irrigated acres may occur when less than sixty percent (60%) of the allocation has been used during the allocation period (as per SPNRD Districtwide Ground Water Management Area Rules and Regulations). In such instances, the applicant may apply to transfer the amount of the certified irrigated acres equal to the percent use of the allocation for the allocation period.

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

7.3.4.6 Certified Acres Served by Ground Water and Surface Water

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

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

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

7.3.4.7.1 Application form (available from the District);
7.3.4.7.2 Proof of ownership from tax assessor for each certified irrigated tract to be involved in the transfer; and
7.3.4.7.3 Aerial photograph showing tracts to be involved in the transfer.

7.3.4.8 Nothing contained in Rule 7.3.4 is intended or shall be construed as:

7.3.4.8.1 Permitting the development of any new well; or
7.3.4.8.2 Prohibiting a person from pursuing a variance from these rules and regulations, pursuant to Rule 10.5.

7.3.5 Transfers of Ground Water from Outside the District to Inside the District - District approval is required before ground water is transferred from a well located outside the District for use within the District, unless such transfer began before the effective date of these rules and regulations or the water is used solely for domestic purposes. Such approval shall be granted if the proposed transfer of the ground water is not inconsistent with the District's rules and regulations and if the applicant agrees that such approval

may be conditioned on the water use being in conformance with District rules and regulations relating to the use of water withdrawn inside the District. The transfer must be in conformance with any applicable transfer rules of the NRD from which the transfer originates. The applicant shall provide the District with such information as the District deems necessary to make such determinations.

7.3.6 Municipal Transfer Permits

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

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

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

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

7.3.6.2 Transfers for a public water supply not permitted under the Municipal and Rural Domestic Ground Water Transfers Permit Act shall require a transfer permit from the District in accordance with Rule 7.3.1 if such transfer will cross a municipal boundary.

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

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

7.3.6.2.3 In considering the transfer permit application for a municipal transfer, the District shall examine the factors found in Rules 7.3.9.5, 7.3.9.6, and 7.3.9.7 and those including, but not limited to, the following:

7.3.6.2.3.1 Whether the proposed withdrawal, use, and transfer is reasonable;
7.3.6.2.3.2 Whether the proposed withdrawal, use, and transfer is not contrary to the conservation and beneficial use of ground water;
7.3.6.2.3.3 Whether the proposed withdrawal, use, and transfer is not otherwise detrimental to the public welfare; and
7.3.6.2.3.4 Nature of the proposed use.

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

7.3.7 Industrial Transfer Permits

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

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

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

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

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

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

7.3.7.2.1 Copies of variances or District permit applications for industrial uses shall be forwarded to the Department for review, to ensure that no

state industrial transfer permit is also required and that compliance with any interstate compacts or formal state agreements will be maintained.

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

7.3.7.2.3 In considering the transfer permit application, the District shall shall examine the factors found in Rules 7.3.9.5, 7.3.9.6, 7.3.9.7 and those including, but not limited to, the following:

7.3.7.2.3.1 Possible adverse effects on existing surface or ground water users;

7.3.7.2.3.2 Effect on surface or ground water supplies needed to meet reasonably anticipated domestic and agricultural demands in the area of the proposed withdrawal;

7.3.7.2.3.3 Economic benefit of the proposed use;

7.3.7.2.3.4 Social and economic benefits of existing uses of surface or ground water in the area;

7.3.7.2.3.5 Any waivers of liability from existing users filed with the District;

7.3.7.2.3.6 Effects on any interstate compacts or formal state agreements; and

7.3.7.2.3.7 Other factors reasonably affecting the equity of granting the permit.

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

7.3.8 Transfer Out of State

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

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

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

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

7.3.8.3.2 Any formal action taken by the Board adopting any offset for uses other than municipal and industrial uses determined by the District or the Department to be necessary to maintain compliance with any interstate compacts or formal state agreements or to mitigate any effects to surrounding ground water users or surface water appropriators; and
7.3.8.3.3 If the District determines an offset on behalf of the user, the nature of the offset and the enforcement provisions that will be required.

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

7.3.9 Application for Transfer Permit(s)

7.3.9.1 An application for a District permit to transfer subject to Rules 7.3.1, 7.3.3, 7.3.4, 7.3.5, 7.3.6.2, and 7.3.7.2 shall include the following information:
7.3.9.1.1 The name and post office address of each owner of the land where the well or wells are or will be located, and if another person or persons operate such well, the name and address of such person or persons;
7.3.9.1.2 The name and post office address of the owner or owners of the land where the water is to be transferred for use;
7.3.9.1.3 The legal description of the tract of land where the well or wells are or will be located;
7.3.9.1.4 The legal description of the tract of land where the water is to be transferred for use;
7.3.9.1.5 If an existing well will be used, the Department water well registration number for such well;
7.3.9.1.6 The nature of the proposed use;
7.3.9.1.7 The maximum rate of withdrawal from the well or wells to be used as the source of water for the transfer;
7.3.9.1.8 The range of the maximum and average amounts of water proposed to be withdrawn and transferred on an annual basis;
7.3.9.1.9 If the withdrawal and transfer is temporary, the time period for which a District permit is being sought;
7.3.9.1.10 An aerial photo or photos showing the proposed point(s) of withdrawal, the proposed point(s) of delivery, and the transfer route(s);
7.3.9.1.11 Identification of any alternative sources of surface water or ground water available to the applicant for the proposed use and the reasons why use of such alternative source or sources is not being sought;
7.3.9.1.12 An assessment of the effects of the proposed withdrawal, transfer and use on existing ground water users, on existing surface water appropriators, and on ground water and surface water supplies needed to meet present or reasonable future demands within the State or to comply

with any interstate water compact or decree or with any other formal state contract or agreement;

7.3.9.1.13 An assessment of the effects of the proposed withdrawal, transfer, and use on the environment in the vicinity of the proposed withdrawal and in the vicinity of the proposed use; and

7.3.9.1.14 Any other information the applicant deems relevant to the District's criteria for approval of the proposed withdrawal, transfer, and use.

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

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

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

7.3.9.4 Additional Information Requested - Prior to taking action on any application for a permit governed by Rule 7.3, the District may request the applicant to provide additional information to support the application. Failure of the applicant to provide the requested information may be grounds for denying the permit.

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

7.3.9.5.1 Ensure the consistency of the transfer with the purpose or purposes for which the District's Integrated Management Area was designated;

7.3.9.5.2 Prevent adverse effects on other ground water users or on surface water appropriators;

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

7.3.9.5.4 Otherwise protect the public interest and prevent detriment to the public welfare.

7.3.9.6 District Considerations Relative to Public Interest and Public Welfare - When determining whether it would be in the public interest or detrimental to the public welfare to approve an application for a withdrawal and transfer subject to Rules 7.3.1, 7.3.3, 7.3.4, 7.3.5, 7.3.6.2, and 7.3.7.2, the District shall consider the following:

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

7.3.9.6.2 The availability to the applicant of alternative sources of surface water or ground water for the proposed withdrawal, transport, and use;

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

7.3.9.6.4 Any adverse environmental impacts;

7.3.9.6.5 The cumulative effects of the proposed withdrawal, transfer and use relative to the matters listed in 7.3.9.6.1 to 7.3.9.6.4;

7.3.9.6.6 Whether the proposed withdrawal, transfer, and use is consistent with the integrated management plan;

7.3.9.6.7 If the ground water will be transferred to and used in any other Natural Resources District, whether that NRD has approved such transfer and use and whether such transfer and use would be consistent with the rules and regulations of such other NRD; and

7.3.9.6.8 Any other factors, which the District deems relevant to protect the public interest and prevent detriment to the public welfare.

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

7.3.9.7.1 Information obtained through using best available scientific information including, but not limited to, COHYST modeling efforts;

7.3.9.7.2 The trend of change in the depth of the water level in an aquifer over time, obtained from District records;

7.3.9.7.3 Other transfers into the area in proximity to the impacted well;

7.3.9.7.4 The total usage in proximity to the impacted well; and

7.3.9.7.5 Other factors that would increase the rate of consumptive use in the area of the impacted well.

7.3.9.8 Conditions on Permits Issued - All permits issued by the District for transfers subject to Rules 7.3.1, 7.3.3, 7.3.4, 7.3.5, 7.3.6.2, and 7.3.7.2 shall be conditioned on:

7.3.9.8.1 The applicant's installation and maintenance of a flow meter on the well or wells that will be used for withdrawal;

7.3.9.8.2 The applicant's submission of an annual report concerning the total volume of water pumped from said well or wells in the preceding year;

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

7.3.9.8.4 The District shall otherwise condition the approval of any withdrawal and transfer of ground water off the overlying land as is necessary to ensure that the withdrawal and transfer is and continues to be consistent with the matters listed in Rule 7.3.9.5.

7.3.10 Requesting Assistance - If the District requests assistance from the Department in calculating potential stream depletions and/or impacts to surrounding users or in determining an offset requirement for any impacts, then the District agrees to consider the results of the Department's analysis and address any offsets for uses other than municipal or industrial uses determined to be necessary for mitigation of impacts to surrounding users and/or maintaining compliance with any interstate compacts or formal agreements.

7.4 Municipal Use Accounting and Offsets

7.4.1 Allocation Amount - At this time, the municipalities will not be subject to allocation (as per the recommendation of the municipalities).

7.4.2 Establishment of a Baseline Use - In order to define what are new and expanded consumptive use(s) within the municipality, the District will establish a baseline of existing uses at the time that Neb. Rev. Stat. § 46-740(3) became operative on July 14, 2006.

7.4.2.1 To establish this baseline, the District will 1) collect data for ground water pumped each month during each twelve (12) month period beginning August 1 and ending July 31 for the years 2001 to 2006, measured in gallons, and 2) collect discharge data for the same period on a monthly basis measured in gallons, if available. The District will then subtract the amount discharged from the amount pumped for each twelve (12) month period to determine the total amount of water consumptively used over each twelve (12) month period during the August 2001 to July 2006 timeframe. The highest amount of water consumptively used over a twelve (12) month period from August 1 to July 31 during these five (5) twelve (12) month periods will be the baseline use. If the municipality does not discharge wastewater to a natural watercourse but uses lagoons, then the highest amount of ground water pumped during a twelve (12) month period starting August 1 and ending July 31 between 2001 and 2006 will be considered the baseline use.

7.4.3 Accounting System - Starting August 1, 2006, the total consumptive use of ground water used by the municipality will be measured for each year (August 1 through July 31) and then be compared to the baseline use calculated in Rule 7.4.2.1. Due to the requirements of the Nebraska New Depletion Plan (NNDP), the Village of Big Springs, located within the NNDP 28%/40-year area (see attached Map 2), has different provisions under subsection 7.4.3 than the other municipalities within the District.

7.4.3.1 The total amount of ground water annually consumed by the municipality will be determined by 1) collecting data for the amount of ground water pumped on a monthly basis between August 1 and July 31, measured in gallons, and 2)

collecting data for the amount of ground water discharged on a monthly basis between August 1 and July 31, if available. The annual amount discharged will then be subtracted from the annual amount pumped. If the municipality does not discharge wastewater to a natural watercourse but uses lagoons, then the amount pumped between August 1 and July 31 will be used to determine the amount of ground water annually consumed.

7.4.3.2 The difference between each subsequent annual calculation of consumptive use and the baseline use will be recorded. A cumulative total of consumptive use (CTCU) will be kept of the amount over or under the baseline use for each five (5) year increment between August 1, 2006 and January 1, 2026. For the Village of Big Springs, the CTCU over or under the baseline use for each year between August 1, 2006 and January 1, 2026 will be recorded.

7.4.3.3 If, at the end of each five (5) year increment between August 1, 2006 and January 1, 2026 (for the Village of Big Springs the end of each year between August 1, 2006 and January 1, 2026), the CTCU exceeds the baseline use, measures will be taken by the NRD within six (6) months after the end of the five (5) year (one (1) year for the Village of Big Springs) increment to offset the CTCU over the baseline use, if:

7.4.3.3.1 The CTCU is due to consumptive water use by a new or expanded single commercial or industrial development served by the municipality in annual amounts less than or equal to twenty-five (25) million gallons; and/or

7.4.3.3.2 The CTCU is due to water use in amounts below the municipality's municipal transfer permit, if applicable; and/or

7.4.3.3.3 The CTCU is less than or equal to two hundred and fifty (250) gallons per person per day for the permanent population of the municipality plus the governmental uses within the municipality.

7.4.3.4 If, at the end of each five (5) year increment between August 1, 2006 and January 1, 2026 (for the Village of Big Springs the end of each year between August 1, 2006 and January 1, 2026), the CTCU exceeds the baseline use, measures will be taken by the municipality, within six (6) months after the end of the five (5) year (one (1) year for the Village of Big Springs) increment to offset the CTCU over the baseline use, if:

7.4.3.4.1 The CTCU is due to water use in amounts in excess of the municipality's municipal transfer permit, if applicable; and/or

7.4.3.4.2 The CTCU is greater than two hundred and fifty (250) gallons per person per day for the permanent population of the municipality.

7.4.3.5 Industrial or commercial users served by a municipality are required to make application for and be granted a large user permit pursuant to Section 7.6 prior to beginning of a new or expanded consumptive use of water in annual amounts greater than twenty-five (25) million gallons.

7.4.3.6 If, at the end of each five (5) year (one (1) year for the Village of Big Springs) increment between August 1, 2006 and January 1, 2026, the CTCU is less than the baseline use, that portion of the CTCU that is under the baseline use will carryforward to the next five (5) year (one (1) year for the Village of Big Springs) increment CTCU.

7.4.3.7 If, by January 1, 2026, the CTCU is less than the baseline use, that portion of the CTCU that is under the baseline use will be put in the District's water bank to be used to offset any future increased consumptive use of the municipality.

7.4.3.8 The municipality must report to the District any offsets applied pursuant to Rule 7.4.3.4. The report must contain a description of the offset, and the timing (for the Village of Big Springs, the timing by month), location, and amount of the offset. This report will be reviewed by the Board. If there are any inconsistencies with the IMP in the report, the Board will meet with the municipality to resolve the issues.

7.4.3.9 The municipality must report to the District, specified by governmental subdivision or unit, the type of use, location of use, and amount of use of governmental ground water uses within the municipality annually for the period August 1 through July 31.

7.4.3.10 The municipality will be responsible for tracking any new or expanded increase in the amount of water delivered to a single commercial or industrial development served by the municipality, for the amount of water used for governmental uses within the municipality, for the permanent population of the municipality, and the persons served by the municipal system outside of its corporate limits if such service begins prior to January 1, 2026.

> 7.4.3.10.1 The data collected by the municipality pursuant to Rules 7.4.3.1 and 7.4.3.10 shall be submitted to the District by October 1 of each year.

7.4.3.11 The District will be responsible for maintaining and implementing the accounting system for each municipality.

7.4.3.12 If, due to growth of the municipality, the consumptive use of water is permanently reduced (e.g. by taking irrigated acres out of production) then that reduced amount of consumptive use will accrue to the District's water bank to be used in whole or in part to offset any future increased consumptive use of the municipality.

> 7.4.3.12.1 The District will determine the amount of reduction in consumptive use due to the growth of a municipality based on the computation of the Crop Irrigation Requirement (CIR), using the best

available scientific information including, but not limited to, the COHYST model.

7.4.3.12.2 The District will notify in writing the previous landowner and the municipality that the consumptive use calculated in Rule 7.4.3.12.1 has been transferred to the District's water bank.

7.4.3.12.3 If the permanent reduction in consumptive use results from the retirement of certified irrigated acres, those acres will be decertified by the District.

7.4.3.12.4 If a well is associated with the permanent reduction in consumptive use, the current landowner of such well will either decommission the well within one hundred and eighty (180) days or will modify and equip the well within one hundred and eighty (180) days to pump fifty (50) gallons per minute or less and only use it for range livestock, monitoring, observation, or any other nonconsumptive or de minimis use approved by the District.

7.4.4 Water Conservation Plan - Each municipality of the first and second class shall file a conservation plan with the District within three (3) months following the effective date of this integrated management plan.

7.4.4.1 The conservation plan must be reviewed by the municipality no less than every three (3) years after the initial conservation plan is filed and if changes are made, re-filed with the District.

7.4.4.2 During the three (3) year period after the plans are initially filed, the District will determine whether or not guidelines need to be developed concerning the information to be contained in future conservation plans.

7.4.4.3 Although not required, villages may submit a conservation plan to the District. This may be used by the District and the village as an information and education tool to promote conservation practices and efforts.

7.4.5 The Board intends to work with the cities and villages located within the South Platte Natural Resources District and encourages them to meter all water distribution to its customers including: 1) residential customers, 2) commercial customers, 3) industrial customers, and 4) governmental uses, within 10 years from the time the Integrated Management Plan (IMP) is adopted. The Board further encourages cities and villages to establish water use rates and fee structures that promote water conservation, while at the same time accommodating economic and community growth. The District will work with the cities and villages to seek federal and state funding assistance for purchasing and installing customer meters. The District intends to consult and collaborate with the cities and villages, and the Nebraska Department of Natural Resources to evaluate and modify

the IMP, should the effort to incorporate meters to distribution systems not occur within 10 years from the time the IMP is adopted.

7.4.6 On or after January 1, 2026, the base amount for an annual allocation to a municipality shall be determined as the greater of either 1) the amount of water authorized by a permit issued pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act or 2) the greatest annual use prior to January 1, 2026, for commercial, industrial, and governmental uses plus the per capita allowance described in Neb. Rev. Stat. § 46-740(3)(b)(ii).

7.4.6.1 On and after January 1, 2026, increases in the consumptive use of water by a municipality that result in a decrease in streamflow shall be addressed by the integrated management plan pursuant to controls or incentive programs adopted pursuant to Neb. Rev. Stat. § 46-715. Each municipality may be subject to controls adopted pursuant to such section for amounts in excess of the allocations.

7.5 Non-Municipal Commercial and Industrial Use Accounting and Offsets

7.5.1 Allocation amount - Prior to January 1, 2026, the annual allocation amount for non-municipal commercial or industrial user shall be the greater of either 1) the amount specified in a permit issued pursuant to the Industrial Ground Water Regulatory Act or 2) the amount necessary to achieve the commercial or industrial use, including all new or expanded uses that consume less than twenty-five (25) million gallons annually.

7.5.2 Establishment of Baseline - In order to define what are new and expanded consumptive use(s) of a new or expanded single industrial or commercial development served by a non-municipal well, the District will establish a baseline of existing use(s) at the time that Neb. Rev. Stat. § 46-740(5) became operative on July 14, 2006.

7.5.2.1 To establish this baseline, the District will 1) collect monthly data for ground water pumped during each twelve (12) month period beginning August 1 and ending July 31 for the years 2001 to 2006, measured in gallons, and 2) collect monthly discharge data for the same period measured in gallons, if available. The District will then subtract the amount discharged from the amount pumped for each twelve (12) month period to determine the total amount of water consumptively used over each twelve (12) month period during the August 2001 to July 2006 timeframe. The highest amount of water consumptively used over a twelve (12) month period from August 1 to July 31 during these five (5) twelve (12) month periods will be the baseline use. If the non-municipal industrial or commercial user does not discharge wastewater to a natural watercourse but uses lagoons, then the highest amount of ground water pumped during a twelve (12) month period starting August 1 and ending July 31 between 2001 and 2006 will be considered the baseline use.

7.5.3 Accounting System - Starting August 1, 2006, the total consumptive use of ground water by the non-municipal industrial or commercial user will be measured for each year

(August 1 through July 31) and then be compared to the baseline use calculated in Rule 7.5.2.1. Due to the requirements of the Nebraska New Depletion Plan (NNDP), the area of the District, located within the NNDP 28%/40-year area (see attached Map 2), has different provisions under subsection 7.5.3 than the other non-municipal industrial or commercial users within the District.

7.5.3.1 The total amount of ground water annually consumed by the non-municipal industrial or commercial user will be determined by 1) collecting data for the amount of ground water pumped on a monthly basis between August 1 and July 31, measured in gallons, and 2) collecting data for the amount of ground water discharged on a monthly basis between August 1 and July 31, if available. The annual amount discharged will then be subtracted from the annual amount pumped. If the non-municipal industrial or commercial user does not discharge wastewater to a natural watercourse but uses lagoons, then the amount pumped between August 1 and July 31 will be used to determine the amount of ground water annually consumed.

7.5.3.2 The difference between each subsequent annual calculation of consumptive use and the baseline use will be recorded. A cumulative total of consumptive use (CTCU) will be kept of the amount over or under the baseline use for each five (5) year increment between August 1, 2006 and January 1, 2026. For the non-municipal industrial or commercial uses within the NNDP 28%/40-year area, the CTCU over or under the baseline use for each year between August 1, 2006 and January 1, 2026 will be recorded.

7.5.3.3 If, at the end of each five (5) year increment between August 1, 2006 and January 1, 2026 (for the non-municipal industrial or commercial uses within the NNDP 28%/40-year area the end of each year between August 1, 2006 and January 1, 2026), the CTCU exceeds the baseline use, measures will be taken by the NRD within six (6) months after the end of the five (5) year (one (1) year for the non-municipal industrial or commercial uses within the NNDP 28%/40-year area) increment to offset the CTCU over the baseline use, if:

7.5.3.3.1 The CTCU is due to consumptive water use by a new or expanded single non-municipal industrial or commercial development in annual amounts less than or equal to twenty-five (25) million gallons, and/or

7.5.3.3.2 The CTCU is due to water use in amounts below the non-municipal industrial or commercial user's industrial transfer permit, if applicable.

7.5.3.4 If, at the end of each five (5) year increment between August 1, 2006 and January 1, 2026 (for the non-municipal industrial or commercial uses within the NNDP 28%/40-year area the end of each year between August 1, 2006 and January 1, 2026), the CTCU exceeds the baseline use, measures will be taken by the non-municipal industrial or commercial user, with prior approval from the Board, within six (6) months after the end of the five (5) year (one (1) year for the

non-municipal industrial or commercial uses within the NNDP 28%/40-year area) increment to offset the CTCU over the baseline use, if:

7.5.3.4.1 The CTCU is due to consumptive water use by a new or expanded single non-municipal industrial or commercial development in annual amounts greater than twenty-five (25) million gallons; or

7.5.3.4.2 The CTCU is due to water use in amounts in excess of the non-municipal industrial or commercial user's industrial transfer permit, if applicable.

7.5.3.5 If, at the end of each five (5) year (one (1) year for the non-municipal industrial or commercial uses within the NNDP 28%/40-year area) increment between August 1, 2006 and January 1, 2026, the CTCU is less than the baseline use, that portion of the CTCU that is under the baseline use will carryforward to the next five (5) year (one (1) year for the non-municipal industrial or commercial uses within the NNDP 28%/40-year area) increment CTCU.

7.5.3.6 If, by January 1, 2026, the CTCU is less than the baseline use, that portion of the CTCU that is under the baseline use will be put in the District's water bank.

7.5.3.7 The non-municipal industrial or commercial user must report to the District any offsets applied pursuant to Rule 7.5.3.4. The report must contain a description of the offset, and the timing (for the non-municipal industrial or commercial uses within the NNDP 28%/40-year area, the timing by month), location, and amount of the offset.

7.5.3.8 The non-municipal industrial or commercial user will be responsible for tracking their new or expanded consumptive water use.

7.5.3.9 The data collected by the non-municipal industrial or commercial user pursuant to Rules 7.5.3.1 and 7.5.3.8 shall be submitted to the District by October 1 of each year.

7.5.3.10 The District will be responsible for maintaining and implementing the accounting system for each non-municipal industrial or commercial user.

7.5.3.11 If, due to growth of the non-municipal industrial or commercial use, the consumptive use of water is permanently reduced (e.g. taking irrigated acres out of production) then that reduced amount of consumptive use will accrue to the District's water bank to be used in whole or in part to offset any future increased consumptive use of the non-municipal industrial or commercial user.

7.5.3.11.1 The District will determine the amount of reduction in consumptive use due to the growth of a non-municipal industrial or commercial use based on the computation of the Crop Irrigation Requirement (CIR), using the best available scientific information including, but not limited to, the COHYST model.

7.5.3.11.2 The District will notify in writing the previous landowner and the non-municipal industrial or commercial user that the consumptive use calculated in Rule 7.5.3.11.1 has been transferred to the District's water bank.

7.5.3.11.3 If the permanent reduction in consumptive use results from the retirement of certified irrigated acres, those acres will be decertified by the District.

7.5.3.11.4 If a well is associated with the permanent reduction in consumptive use, the current landowner of such well will either decommission the well within one hundred and eighty (180) days or will modify and equip the well within one hundred and eighty (180) days to pump fifty (50) gallons per minute or less and only use it for range livestock, monitoring, observation, or any other nonconsumptive or de minimis use approved by the District.

7.6 Large User Permit

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

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

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

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

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

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

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

7.6.1.2.5 If any existing well will be used, the Department's water well registration number for the well, or if supplied by a municipality, the name of the municipality;
7.6.1.2.6 If a new or replacement ground water well will be constructed, the District's water well construction permit number;
7.6.1.2.7 A detailed description of the nature of the proposed use;
7.6.1.2.8 If not supplied by a municipality, the maximum rate of withdrawal from the well or wells;
7.6.1.2.9 If not supplied by a municipality, the range of maximum and average amounts of water proposed to be withdrawn on an annual basis;
7.6.1.2.10 The amount of ground water to be consumptively used from the water pumped from the well or wells or from the municipality and a detailed explanation of how the amount of consumptive use was calculated;
7.6.1.2.11 Identification of any alternative sources of surface water or ground water available to the applicant for the proposed use and the reasons why the alternative source or sources will not be used;
7.6.1.2.12 An assessment of the effects that the proposed withdrawal and/or consumptive use of ground water may have on existing ground water users, on existing surface water users, and on ground water and surface water supplies needed to meet present or reasonable future demands within the state or to comply with any interstate water compact, decree, or any other formal state contract or agreement;
7.6.1.2.13 For a non-transient non-community public water supplier or a transient non-community public water supplier, a proposed offset for the amount of consumptive use specified in accordance with 7.6.1.2.10 and a detailed explanation of how the proposed offset was calculated;
7.6.1.2.14 If not supplied by a municipality, an assessment of the effects of the proposed withdrawal and use on the environment in the vicinity of the proposed withdrawal and in the vicinity of the proposed use; and
7.6.1.2.15 Any other information the applicant deems relevant to the District's criteria for approval of the proposed withdrawal and/or use, which are listed in 7.6.2 and 7.6.3.

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

7.6.2.1 Ensure compliance with the District's Integrated Management Area;
7.6.2.2 Prevent adverse effects on other ground water users or on surface water users;
7.6.2.3 Prevent adverse effects on the state's ability to comply with an interstate compact or decree or to fulfill the provisions of any other formal state contract or agreement; and
7.6.2.4 Protect the public interest and prevent detriment to the public welfare.

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

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

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

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

7.6.3.4 The cumulative effects of the proposed withdrawal and/or use relative to the matters listed in 7.6.3.1 through 7.6.3.3 when considered in conjunction with all other ground water uses;

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

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

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

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

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

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

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

7.6.5 Upon request from the District, the Department will assist the District in reviewing large user permit applications.

8. SURFACE WATER CONTROLS - These controls apply to the fully and overappropriated portions of the District.

8.1 The Department's moratorium on the issuance of new surface water permits on the South Platte River and the Lodgepole Creek made formal by Order of the Director dated July 14, 2004, will be continued.

8.2 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 Department rules or the criteria found in Neb. Rev. Stat. §§ 46-2,2120 to 46-2,130 and related Department rules.

8.3 The Department will continue to administer surface water rights according to state law and to monitor use of surface water and to make sure that unauthorized irrigation is not occurring.

8.4 Measurement of all surface water diversions at the point of diversion from the stream will be required. By the start of the 2010 irrigation season all farm turnouts on surface water canals will be required to have a Department approved measuring device. All measuring devices shall be installed and maintained to meet Department standards for installation, accuracy, and maintenance. All appropriators will be monitored to ensure that neither the rate of diversion nor the annual amount diverted exceeds that allowed by the applicable permit or by statute.

8.5 At this time, the Department shall not require that surface water appropriators apply or use additional conservation measures or that they be subject to other new restrictions on surface water use. However, the Department 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 Department shall "allow the affected surface water appropriators and surface water project sponsors a reasonable amount of time, not to exceed one hundred and eighty (180) days, unless extended by the Department, 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).

8.6 The Department shall notify the District of any of any transfer or order of cancellation issued pursuant to Neb. Rev. Stat. § 46-229.04(5) or of any assignment of the right to use that portion of the appropriation that was relinquished to other land within an Irrigation District pursuant to Neb. Rev. Stat. § 46-229.04(5).

9. OVERAPPROPRIATED AREA AND NEBRASKA NEW DEPLETION PLAN

9.1 Goals and Objectives

9.1.1 Goals

9.1.1.1 Incrementally achieve and sustain a fully appropriated condition.

9.1.1.1.1 Within the first ten (10) year increment, address impacts of streamflow depletions to surface water appropriations and water wells constructed in aquifers dependent upon recharge from streamflow to the extent those depletions are due to water use initiated after July 1, 1997.

9.1.1.1.2 Impacts of streamflow depletions to surface water appropriations and water wells constructed in aquifers dependent upon recharge from streamflow to the extent those depletions are due to water use initiated prior to July 1, 1997, may be addressed prior to a subsequent increment with the intent of achieving a fully appropriated condition.

9.1.1.1.3 Once a fully appropriated condition is achieved, maintain such condition through the implementation of the IMP.

9.1.1.2 Ensure that no act or omission of the SPNRD would cause noncompliance by Nebraska with any interstate compact or decree or other formal state contract or agreement.

9.1.1.2.1 Ensure that no act or omission of the SPNRD would cause noncompliance by Nebraska with the Nebraska New Depletion Plan (NDP) included within the Platte River Recovery Implementation Program (Program), for as long as a Program exists.

9.1.1.3 Maintain consistency with the Basin-Wide Plan.

9.1.2 Objectives

9.1.2.1 Goal 9.1.1.1.1 Objectives

9.1.2.1.1 Implement measures within the first ten (10) year increment to offset an average annual depletion rate of one hundred fifty (150) acre-feet to the North Platte River, four hundred (400) acre-feet to the South Platte River, and one hundred fifty (150) acre-feet to Lodgepole Creek for the period 2043-2048. These rates are the current best estimates and are subject to change based upon new data and information.

9.1.2.1.2 Conduct a technical analysis as described in Neb. Rev. Stat. § 46-715(4)(d)(iii) for this IMP after it has been in effect for six (6) years, to determine whether the measures adopted in this IMP are sufficient to offset depletions due to post-July 1, 1997, water uses.

9.1.2.2 Goals 9.1.1.1.1 and 9.1.1.1.2 Objectives

9.1.2.2.1 Continue to refine the estimation methodology used to calculate the difference between the current and fully appropriated levels of development.

9.1.2.2.2 Use available funds to offset depletions that are identified as part of the overall difference between current and fully appropriated levels of development.

9.1.2.3 Goals 9.1.1.1.1, 9.1.1.1.2 and 9.1.1.1.3 Objectives

9.1.2.3.1 Develop and maintain data and analytical tools, such as the Cooperative Hydrology Study (COHYST) and other programs and projects needed to implement this IMP.

9.1.2.3.2 Review the provisions of this IMP to ensure that they are adequate to sustain progress toward a fully appropriated condition.

9.1.2.3.3 Review the provisions of this IMP to ensure that they are adequate to maintain a fully appropriated condition.

9.1.2.4 Goal 9.1.1.2.1 Objectives

9.1.2.4.1 To the extent required in order to maintain compliance with the NDP, provide accretions to the North Platte River and the South Platte River-Lodgepole Creek equal to or exceeding the annual depletion amount, taking into account appropriate timing and location, for the first ten (10) year increment, as shown in Tables 1 and 2, respectively. The data shown in the tables below represent the current best estimate of stream depletions due to changes in ground water irrigated acres between 1997 and 2005 to the North Platte River and the South Platte River-Lodgepole Creek and are subject to change based upon new data and information. The analysis used to determine the figures in Table 2 includes all of the area encompassed by Lodgepole Creek and the South Platte River. Preliminary basin-specific analysis indicates that approximately seventy percent (70%) of the depletion amount in Table 2 can be assigned to the South Platte River and the remaining thirty percent (30%) to Lodgepole Creek. With respect to Objective 9.1.2.1.1, this IMP will assume the spatial distribution of the depletion by basin and subbasin is constant. This spatial distribution is the current best estimate and is subject to change based upon new data and information.

Table 1 - Current Best Estimate of Depletions to the North Platte River due to Changes in Ground Water Irrigated Acres within the SPNRD between 1997 and 2005 based upon the June 10, 2008 COHYST report on stream depletions.

Year	2009	2010	2011	2012	2013	2014
Annual Stream Depletion (AF)	1	1	2	3	4	5

Year	2015	2016	2017	2018	2019
Annual Stream Depletion (AF)	7	8	10	12	13

Table 2 - Current Best Estimate of Depletions to the South Platte River-Lodgepole Creek due to Changes in Ground Water Irrigated Acres within the SPNRD between 1997 and 2005 based upon the June 10, 2008 COHYST report on stream depletions.

Year	2009	2010	2011	2012	2013	2014
Annual Stream Depletion (AF)	103	112	122	132	144	156

Year	2015	2016	2017	2018	2019
Annual Stream Depletion (AF)	168	179	190	201	213

9.1.2.4.2 As required by the NDP, submit reports to the Department as necessary to assist Nebraska in maintaining compliance with the Program.

9.1.2.5 Goal 9.1.1.3 Objectives

9.1.2.5.1 Amend this IMP as needed to remain consistent with the Basin-Wide Plan.

9.1.2.5.2 Participate in basin-wide planning activities.

9.1.2.5.3 If appropriate, follow the dispute resolution process in the Basin-Wide Plan.

9.2 Plan Components

9.2.1 Action Items to Achieve Goals and Objectives

The action items described in this section are intended to be consistent with the requirements of Neb. Rev. Stat. § 46-715(3).

9.2.2 Non-Regulatory Action Items

9.2.2.1 Information and Education Programs

These programs are discussed in the fully appropriated portion of this IMP.

9.2.2.2 Incentive Programs

9.2.2.2.1 The Department and/or the SPNRD intend to establish, implement, and/or continue financial or other incentive programs to reduce consumptive use of water within the SPNRD to meet the goals and objectives of this IMP. Incentive programs include any program authorized by state law and/or federal programs such as EQIP (Environmental Quality Incentive Program) or AWEP (Agricultural Water Resources Enhancement Program).

9.2.2.2.2 At this time, the Platte Basin NRDs (Central Platte NRD, Tri-Basin NRD, Twin Platte NRD, North Platte NRD and South Platte NRD) and the Department have identified PBHEP (Platte Basin Habitat Enhancement Program) as an incentive program that they intend to pursue to reduce consumptive use within the overappropriated portion of the Platte River Basin.

9.2.2.3 Other Programs

9.2.2.3.1 The SPNRD and the Department may investigate opportunities to reduce the consumptive use of water in order to enhance water supply as well as other water supply improvement projects. The SPNRD and the Department may develop an incentive-based program if such an opportunity exists. When developing any water- based programs, the Department and the SPNRD intend to follow these principles:

9.2.2.3.1.1 Using the best science readily available.

9.2.2.3.1.2 Enhancing ground water quantity, ground water quality and recognition of the value of return flows.
9.2.2.3.1.3 Working with irrigation districts, not just individual appropriators, when potential projects affect the irrigation district's operation.

9.2.2.3.1.4 Remaining in compliance with any state or federal laws, contracts, interstate compacts, or decrees that govern the water use of the irrigation districts.

9.2.2.3.2 These other programs may include, but are not limited to the following: (1) transfer existing surface water appropriations within the District to instream flow appropriations; (2) transfer existing surface water appropriations or apply for new appropriations for intentional recharge, and recovery when appropriate, in existing canals during the irrigation or non-irrigation season; (3) develop new infrastructure (e.g. dams or canals) that may include intentional recharge projects, and recovery when appropriate; (4) ground water projects for the purpose of providing net accretions to the river; and (5) contractual agreements between water users.

9.2.2.3.3 If any of these programs were to be pursued, the Department and the SPNRD would develop a schedule to complete the project(s) within the first ten (10) year increment.

9.2.2.3.4 Process for Implementing Other Programs

9.2.2.3.4.1 Determine the available ground water and surface water supplies.

9.2.2.3.4.1.1 Unappropriated Surface Water

9.2.2.3.4.1.1.1 Perform an analysis to determine if there is unappropriated surface water within the first year of the first ten (10) year increment.

9.2.2.3.4.1.1.2 Determine if unappropriated surface water is available at the necessary time, in the right location and in the correct amount, or determine if it can be appropriately relocated or retimed.

9.2.2.3.4.1.2 Appropriated Surface Water

9.2.2.3.4.1.2.1 Compile a list of existing surface water appropriations within the SPNRD within the first year of the first ten (10) year increment.

9.2.2.3.4.1.2.2 Determine if the appropriated surface water is available at the necessary time, in

the right location and in the correct amount, or determine if it can be appropriately relocated or retimed.

9.2.2.3.4.1.3 Ground Water

9.2.2.3.4.1.3.1 Compile a list of certified ground water uses within the SPNRD within the first year of the first ten (10) year increment.

9.2.2.3.4.1.3.2 Determine if the certified ground water uses can be converted to another use or otherwise retimed or relocated to provide net accretions to the river at the necessary time and in the right location.

9.2.2.3.4.2 Develop a list of criteria to evaluate the potential to utilize available surface water and/or ground water supplies. The criteria may take into consideration the following:

9.2.2.3.4.2.1 Any permitting requirements or regulatory constraints related to the utilization of the available water supplies.

9.2.2.3.4.2.2 The potential benefits and the estimated cost of operation.

9.2.2.3.4.2.3 The cyclical water supply conditions.

9.2.2.3.4.3 Evaluate available surface water and/or ground water supplies based on the criteria developed in subsection 9.2.2.3.4.2.

9.2.2.3.4.4 Subsections 9.2.2.3.4.2 and 9.2.2.3.4.3 would be an iterative process until the preferred projects are identified.

9.2.2.3.4.5 For existing surface water appropriations, contact the appropriators to determine willingness to cooperate, lease, and/or sell those appropriations. If willing, develop and execute contract(s) with appropriator(s).

9.2.2.3.4.6 Submit the required permit application(s).

9.2.2.3.4.7 Implement the approved projects.

9.2.2.3.5 Identification of Specific Other Programs

9.2.2.3.5.1 At this time, the specific other programs that have been identified consist of the following: (1) management of Oliver

Reservoir; (2) management of SPNRD reservoirs for retiming and augmentation of flow; and (3) exploration of water supply opportunities on the South Platte River.

9.2.3 Ground Water Regulatory Actions (Controls)

9.2.3.1 In order to determine whether ground water regulatory actions are needed in the overappropriated area, the annual stream depletion amounts shown in Tables 3 and 4 will be compared to the stream accretions resulting from the actions taken by the SPNRD. As long as the annual net sum of the accretions resulting from the actions taken by the SPNRD and the annual depletions are less than or equal to zero, regulatory actions will not be required. The depletion amounts shown in Tables 3 and 4 are subject to change based upon the best scientific data and information available.

Table 3 - Current Best Estimate of Depletions to the North Platte River due to Changes in Ground Water Irrigated Acres within the Overappropriated Area of the SPNRD between 1997 and 2005 based upon the June 10, 2008 COHYST report on stream depletions.

Year	2009	2010	2011	2012	2013	2014
Annual Stream Depletion (AF)	0	0	0	0	0	0

Year	2015	2016	2017	2018	2019
Annual Stream Depletion (AF)	0	0	0	0	0

Table 4 - Current Best Estimate of Depletions to the South Platte River-Lodgepole Creek due to Changes in Ground Water Irrigated Acres within the Overappropriated Area of the SPNRD between 1997 and 2005 based upon the June 10, 2008 COHYST report on stream depletions.

Year	2009	2010	2011	2012	2013	2014
Annual Stream Depletion (AF)	81	86	89	93	97	101

Year	2015	2016	2017	2018	2019
Annual Stream Depletion (AF)	104	109	113	118	122

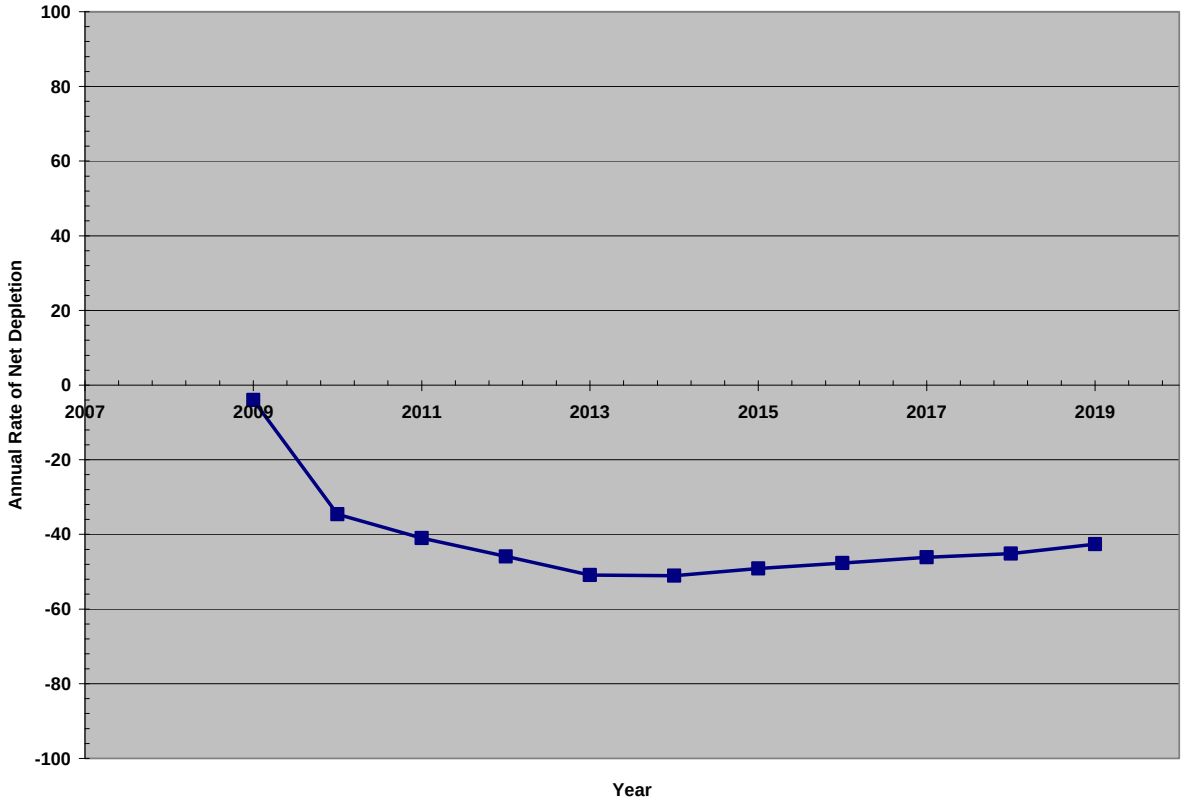
9.2.3.2 The best scientific methods and data currently available indicate that the existing permanent EQIP retirements would provide the necessary accretions to balance the stream depletions shown in Table 4. Table 5 and Graph 1 summarize the current best estimate of the net balance of stream accretions and depletions to the South Platte River-Lodgepole Creek based upon the best scientific data and information available. Since the stream depletions to the North Platte River (as shown in Table 3) are zero for the first ten (10) year increment, an analysis was not completed to show the net balance of stream accretions and depletions.

Table 5 - Current Best Estimate of Annual Net Depletions[1] to the South Platte River-Lodgepole Creek Assuming Existing EQIP Retirements(Estimates of accretions developed by the Department based upon type curves derived from the June 10, 2008 COHYST stream depletions report assuming the distribution of existing retired acres; surface water retirements assume 100% accretion to stream flow instantaneously)

Year	2009	2010	2011	2012	2013	2014
Annual Net Stream Depletion (AF)	-4	-35	-41	-46	-51	-51

Year	2015	2016	2017	2018	2019
Annual Net Stream Depletion (AF)	-49	-48	-46	-45	-43

Graph 1 - Current Best Estimate of Annual Net Depletions[1] to the South Platte River-Lodgepole Creek Assuming Existing EQIP Retirements



9.2.3.3 If new data and information show that the existing permanent EQIP retirements or other measures taken by the SPNRD will not be sufficient to meet the necessary accretions shown in Table 4, regulatory actions will be implemented to achieve Objective 9.1.2.4.1.

[1] Negative numbers indicate an accretion to the stream

9.2.3.4 In order to achieve the objective of having measures in place within the first ten (10) year increment to offset the average annual depletion rate of one hundred fifty (150) acre-feet to the North Platte River, four hundred (400) acre-feet to the South Platte River, and one hundred fifty (150) acre-feet to Lodgepole Creek for the period 2043-2048 (Objective 9.1.2.1.1), regulatory actions will be implemented if the following triggers are not met:

9.2.3.4.1 Within the first six (6) year period, measures will be in place to achieve an annual accretion to the North Platte River equal to or exceeding a rate of one hundred five (105) acre-feet for the period 2043-2048 [seventy percent (70%) of the one hundred fifty (150) acre-feet per year required for the period 2043-2048].

9.2.3.4.2 Within the first six (6) year period, measures will be in place to achieve an annual accretion to the South Platte River equal to or exceeding a rate of two hundred eighty (280) acre-feet for the period 2043-2048 [seventy percent (70%) of the four hundred (400) acre-feet per year required for the period 2043-2048].

9.2.3.4.3 Within the first six (6) year period, measures will be in place to achieve an annual accretion to Lodgepole Creek equal to or exceeding a rate of one hundred five (105) acre-feet for the period 2043-2048 [70% of the one hundred fifty (150) acre-feet per year required for the period 2043-2048].

9.2.3.5 Section 9.3.1.1.1.2 of the monitoring plan describes how progress toward achieving these triggers will be measured.

9.2.3.6 If regulatory actions are required to be implemented to meet objectives 9.1.2.1.1 and 9.1.2.4.1, the following ground water controls will be considered by the Department and the SPNRD for implementation:

9.2.3.6.1 Prior to implementation of any of the ground water controls listed below, the SPNRD and the Department will agree to the method of implementation and the methods used to measure the success of the control(s) in reaching the goals and objectives of the Overappropriated Area and Nebraska New Depletion Plan section of this IMP.

9.2.3.6.2 The SPNRD has already installed flow meters and implemented allocations within the entire District. If further regulatory actions are necessary, the Department and the SPNRD will reassess the allocation in place at the time to determine whether further reductions of the allocation amounts for the District are necessary to meet the goals and objectives of the IMP.

9.2.3.6.3 Since all of the acres within the SPNRD have been certified, another regulatory option would be the reduction of a certain percentage of irrigated acres within the SPNRD. Prior to implementation of this option, the SPNRD and the DNR will determine the percentage reduction necessary to meet the goals and objectives of this IMP.

9.2.4 Surface Water Regulatory Actions

9.2.4.1 The surface water regulatory actions that will be used in the overappropriated area are the same as those described in Rule Eight of this IMP.

9.3 Monitoring and Studies

9.3.1 The overarching purpose of the monitoring and studies section is to ensure that the overappropriated and fully appropriated areas within the SPNRD reach and/or maintain a fully appropriated condition. The objective of the monitoring and studies section of this IMP is to gather and evaluate data, information, and methodologies that could be used to increase understanding of the surface water and hydrologically connected ground water system; to test the validity of the conclusions and information upon which this IMP is based; and to assist decision makers in properly managing the water resources within the SPNRD.

9.3.1.1 Monitoring

9.3.1.1.1 Various methods will be employed to monitor the progress of the implementation of this IMP. Part One of the monitoring section describes the tracking and reporting of water use activities within fully appropriated and overappropriated areas of the District by the SPNRD and the Department. Part Two of the monitoring section describes the analyses that will evaluate the progress that has been made toward (1) addressing streamflow depletions due to new uses begun subsequent to July 1, 1997; (2) reaching a fully appropriated condition; and (3) sustaining a fully appropriated condition. Part Three of the monitoring section describes the procedure for evaluating whether a subsequent increment is necessary to meet the goals and objectives of this IMP.

9.3.1.1.1.1 Part One: Tracking and Reporting of Water Use Activities

9.3.1.1.1.1.1 Tracking

9.3.1.1.1.1.1 The SPNRD will be responsible for tracking the following activities within the District on an annual basis: (1) certification of ground water uses and any changes to these certifications; (2) approved transfers, including all of the information provided with the application and used in the approval of the transfer; (3) any flow meter data collected; (4) any water well construction permits

issued; (5) any other permits issued by the SPNRD; (6) any conditions associated with any permits issued; (7) information gathered through the municipal and non-municipal industrial accounting process; (8) any variances issued, including: the purpose, the location, any required offset, the length of time for which the variance is applicable and the reasoning behind approval of the variance; (9) any retirements of irrigated acres or other activities by the SPNRD for the purpose of returning to a fully appropriated condition; (10) information related to any water banking transactions; and (11) offsets provided for depletions resulting from increased consumptive use related to the above listed items.

9.3.1.1.1.1.1.2 The Department will be responsible for tracking the following activities within the District on an annual basis: (1) any surface water permits issued; (2) any dam safety permits issued; (3) any ground water permits issued; and (4) the associated offsets for any new permits issued. The Department will be responsible for tracking the following activities within the District on a five (5) year basis: (1) National Agricultural Statistics Service livestock data; (2) US Census Bureau population data; (3) inventory of sandpits; (4) inventory of reservoirs of less than fifteen (15) acre-feet; (5) any retirements of irrigated acres or other activities by the Department for the purpose of returning to a fully appropriated condition; and (6) offsets provided for depletions resulting from increased consumptive use related to the above listed items.

9.3.1.1.1.1.2 Reporting

9.3.1.1.1.1.2.1 An annual review of the progress being made toward achieving the goals and objectives of the first ten (10) year increment will include annual reporting by the Department and the SPNRD of the information being tracked as described above. This information will be shared between the SPNRD and the Department, presented at the basin-wide annual meeting, and used for Program compliance.

9.3.1.1.1.1.2.2 The reports from the SPNRD and the Department should include information on the location, amount and timing of the depletions caused by each permitted new or expanded water use, as well as the associated offset and the location, amount and timing of the offset's accretions to the river. The depletions and/or the accretions should be reported for each year throughout the first ten (10) year increment.

9.3.1.1.1.1.2.3 These reports should be made available at least four (4) weeks prior to each basin-wide annual meeting. The format of the reports will be standardized as agreed to by the Department and the Platte Basin NRDs.

9.3.1.1.1.1.2.4 The reported information will be utilized as appropriate in the evaluation process described below.

9.3.1.1.1.2 Part Two: Measuring the Success in Meeting the Goals and Objectives of this IMP

9.3.1.1.1.2.1 Measuring the success of this IMP in addressing streamflow depletions due to new uses begun subsequent to July 1, 1997 (Goals 9.1.1.1.1 and 9.1.1.2.1 of the Overappropriated Area and Nebraska New Depletion Plan portion of this IMP)

9.3.1.1.1.2.1.1 In order to meet the requirements of Neb. Rev. Stat. § 46-715(4)(d)(ii), the data contained in the annual reports submitted by the SPNRD and the Department will be reviewed and analyzed annually to assess the progress being made toward achieving the goals and objectives of the Overappropriated Area and Nebraska New Depletion Plan portion of this IMP for the first ten (10) year increment. The analysis will include a forecasting of the balance of the depletions and offsets from the current year through the year 2048.

9.3.1.1.1.2.1.2 In addition to the annual review, a more robust review of the progress being made toward achieving the goals and objectives of the Overappropriated Area and Nebraska New Depletion Plan portion of this IMP for the first ten (10) year increment will be carried out periodically.

The process for this review is described in Section 9.3.1.1.1.2.1.4.

9.3.1.1.1.2.1.3 The ground water models utilized for this process will be calibrated to baseflows and ground water levels in the area with sufficient temporal variability to assess the impacts on a monthly basis. The ground water models will be updated periodically to simulate the management practices that have been implemented to date. The evaluation period of the models will be 1998 through 2048.

9.3.1.1.1.2.1.4 The following two ground water model runs will be conducted to measure the success toward reaching the objectives of Goal 9.1.1.1.1 and Goal 9.1.1.2.1:

9.3.1.1.1.2.1.4.1 <u>The 1997 Development Level Run</u> - A model run which simulates the number of irrigated acres in 1997 and the associated crop mix. It will incorporate the full crop irrigation requirement for the 1997 crop mix. This model run will serve as the baseline to which the evaluation run will be compared. The run will be conducted using data through the current date and will include an update from the current date through the year 2048.

9.3.1.1.1.2.1.4.2 <u>The Evaluation Run</u> - A model run which simulates the annual changes between the irrigated acres throughout the evaluation period and the irrigated acres in 1997. The model will, when appropriate, utilize the flow meter data that the SPNRD collects to determine the crop consumptive use. The run will be conducted using data through the current date and will include an update from the current date through the year 2048.

9.3.1.1.1.2.1.4.3 <u>Difference between the Evaluation Run and the 1997 Run</u> - The simulated baseflow output from each model

run will be compared to determine the difference.

9.3.1.1.1.2.1.4.4 Surface Water Accretions and Other Uses not Covered by the Model - If surface water acres are retired to offset streamflow depletions due to new uses begun subsequent to July 1, 1997, accretions resulting from those retirements will be determined using agreed upon methodologies.

9.3.1.1.1.2.1.4.5 Evaluation Results - In order for the first ten (10) year increment to be considered achieved, the results of combining the difference between the evaluation run and the 1997 development level run with the addition of surface water accretions and other uses not covered by the model will be less than or equal zero. See the following equation:

(depletions from the Evaluation Run) - (depletions from the 1997 Development Level Run) + (Surface Water Accretions) = Net Depletions

9.3.1.1.1.2.2 Measure the success of reaching a fully appropriated condition

9.3.1.1.1.2.2.1 Because a fully appropriated condition is not currently determined, the Department and the SPNRD will work on outlining the process that will measure the success of reaching the fully appropriated condition once that condition has been determined.

9.3.1.1.1.2.3 Measure the success of maintaining a fully appropriated condition

9.3.1.1.1.2.3.1 Current Fully Appropriated Area - Monitor and analyze uses in the fully appropriated area to determine the change in stream depletions due to such uses.

9.3.1.1.1.2.3.2 Current Overappropriated Area - Because a fully appropriated condition is not currently determined, the Department and the SPNRD will work on outlining the process that will

measure the success of maintaining a fully appropriated condition once that condition has been determined.

9.3.1.1.1.2.3.3 In performing these analyses, the Department and the SPNRD will use the best data and science that is readily available. The Department and the SPNRD will work with other agencies and/or interested parties, if necessary, to identify data gaps in their analyses and determine whether studies should be undertaken to address these gaps.

9.3.1.1.1.3 Part 3: Evaluating the Need for a Subsequent Increment

9.3.1.1.1.3.1 The Department and the SPNRD will carry out the studies and the technical analysis as specified in Neb. Rev. Stat. § 46-715(4)(d)(iii) to determine whether or not a subsequent ten (10) year increment is necessary.

9.3.1.1.1.3.2 Within the first ten (10) year increment, the Department and the SPNRD will continue to refine the estimation methodology used to calculate the difference between the current and fully appropriated levels of development. Fully appropriated levels of development will be determined through the following process:

9.3.1.1.1.3.2.1 Determine the changes in recharge from surface water diversions and the impacts of those changes on streamflow using readily available data.

9.3.1.1.1.3.2.2 Determine the changes in ground water irrigation and the streamflow depletions caused by those changes using readily available data.

9.3.1.1.1.3.2.3 Determine the effects of conservation measures on streamflows.

9.3.1.1.1.3.2.4 Determine the timing and location of the net changes in streamflow.

9.3.1.1.1.3.2.5 Determine when streamflow changes impact existing users, taking into account the effects of cyclical supply (e.g. drought).

9.3.1.1.1.3.2.6 If significant changes in either the timing or location of streamflow have impacted existing users, the SPNRD and the Department will work collaboratively with affected parties to determine subsequent ten (10) year increment goals. These goals will include consideration of the socioeconomic benefits derived from the various uses impacted by such changes in streamflow.

9.3.1.1.1.3.2.7 The Department and the SPNRD will review other data and/or methodologies relevant or significant to the process.

9.3.1.1.1.3.3 The process described above in 9.3.1.1.1.3.2 will focus on uses initiated prior to July 1, 1997, and their impacts on hydrologically connected streamflows. All uses initiated subsequent to July 1, 1997, will be evaluated utilizing the process described in Section 9.3.1.1.1.2.

9.3.1.1.1.3.4 In performing these analyses, the Department and the SPNRD will use the best data and science that is readily available. The Department and the SPNRD will work with other agencies and/or interested parties, if necessary, to identify data gaps in their analyses and determine whether studies should be undertaken to address these gaps.

9.3.1.2 <u>Studies</u>

9.3.1.2.1 The Department and the SPNRD will jointly pursue and/or evaluate studies, contingent upon budget and staff resources, to evaluate their potential effectiveness in achieving the goals and objectives of this IMP.

9.3.1.2.2 The following potential studies have been identified by the Department and the SPNRD: (1) crop rotation; (2) vegetation management; (3) irrigation scheduling; (4) a survey of the type and location of irrigation systems throughout the SPNRD; (5) tillage practices; (6) other best management practices; and (7) conjunctive management.

9.4 Review of and Modifications to the Overappropriated and Nebraska New Depletion Plan Portion of the IMP

9.4.1 First Ten (10) Year Increment

9.4.1.1 The SPNRD and the Department may amend the Overappropriated Area and Nebraska New Depletion Plan portion of this IMP after an annual review of progress made towards achieving the goals and objectives of the Overappropriated Area and Nebraska New Depletion Plan portion of this IMP, or at more frequent intervals as more data and information become available.

9.4.1.1.1 If the published results of COHYST or other model(s) or tool(s) that are developed as part of the monitoring effort show annual depletion values different from those in Table 2, then the Department and the SPNRD shall meet and discuss how this IMP may need to be revised.

9.4.1.2 If the Basin-Wide Plan is revised and results in the need for this IMP to be revised to be consistent with the Basin-Wide Plan, this IMP will be revised accordingly.

9.4.1.3 Basin-Wide Plan Disputes

9.4.1.3.1 If a dispute is presented at the annual meeting as described in the Basin-Wide Plan, the Platte Basin NRDs and the Department will make a determination of whether or not the dispute has hydrologic impact. If it is determined that the dispute does have hydrologic impact, then the Platte Basin NRDs and the Department will determine whether the dispute pertains to all of the Platte Basin NRDs or just individual NRD(s).

9.4.1.3.2 If the dispute pertains to all of the Platte Basin NRDs, an investigation will be conducted by the Platte Basin NRDs and the Department to determine what management actions will address the dispute(s) in the Basin-Wide Plan and/or the IMPs. If the management action pertains to this IMP, then this IMP will be revised accordingly.

9.4.1.3.3 If the dispute is not a basin-wide issue, but pertains to the SPNRD; the Department, the SPNRD and any other affected Platte River Basin NRD(s), working with the affected water user(s), shall develop management solutions as appropriate to address the issue(s).

9.4.1.4 Modifications to the Overappropriated Area and Nebraska New Depletion Plan portion of this IMP will require an agreement by both the SPNRD and the Department as to the proposed changes. After the proposed changes have been agreed to, a joint hearing on those changes will be required. This IMP will be provided to all of the other Platte Basin NRDs for comment before the revisions are approved by the SPNRD and the Department.

9.4.2 Second Ten (10) Year Increment

9.4.2.1 A technical analysis as described in Neb. Rev. Stat. § 46-715(4)(d)(iii) will be completed after this IMP has been in effect for six (6) years. This technical analysis will determine whether the measures adopted in this IMP are sufficient to offset depletions due to post-July 1, 1997, water uses.

9.4.2.2 If it is determined from this technical analysis that a subsequent ten (10) year increment is needed to meet the goals and objectives of this IMP, then, pursuant to Neb. Rev. Stat. § 46-715(4)(d)(iv), the goals and objectives for the subsequent ten (10) year increment will be developed using the consultative and collaborative process described in Neb. Rev. Stat. § 46-715(4)(b). The subsequent ten (10) year increment shall be completed, adopted and take effect not more than ten (10) years after adoption of this IMP.

10. OTHER PROVISIONS - These provisions apply to the fully and overappropriated portions of the District.

10.1 Incentive Programs - Federal, State, and Local

10.1.1 The District and the Department intend to establish, implement, and/or continue financial or other incentive programs to reduce consumptive use of water within the District, as needed to alleviate conflicts between ground and surface water users. As a condition for participation in an incentive program, water users or landowners may be required to enter into and perform such agreements, covenants, or perpetual easements concerning the use of land or water as are necessary to produce the benefits for which the incentive program is established.

10.1.2 Such incentive programs may include any program authorized by state law and/or federal programs.

10.2 Water Banking

10.2.1 The accounting system for municipal and industrial users and the relationship to the District's water bank is described in Rule 7.4 and 7.5, respectively.

10.2.2 A water bank will be established by the District. This water bank will keep track of reductions in consumptive use (e.g. taking acres out of irrigated production or retirement of an industrial use) and additions of consumptive use (e.g. putting acres into irrigated production or the addition of an industrial use) within the District.

10.2.2.1 Only the District will be able to establish a water bank. If a ground water user desires to participate in a water bank, the user must do so through the District's water bank.

10.2.3 When certified acres are taken out of irrigated production, either through incentive programs, donations, or other means, those acres will be put into the water bank. The consumptive use, based on the computation of the Crop Irrigation Requirement(s) (CIR) for offsets, using the best available scientific information including, but not limited to, the COHYST model will be calculated for those acres.

10.2.3.1 The minimum amount of acres that can be put into the water bank is one (1) acre.

10.2.4 Reductions in consumptive use due to retirement and/or transfer of non-irrigation uses will be calculated by the District and upon agreement by the owner, put into the water bank.

10.2.5 The calculated consumptive use in the water bank may be transferred, following the procedure outlined in Rule 7.3, or used to offset additional consumptive use due to range livestock or domestic wells.

10.2.5.1 The minimum amount of consumptive use that can be removed from the water bank is 0.25 acre-feet.

10.2.6 The District will develop a system whereby the consumptive use in the water bank can be sold by the District to a willing buyer. The money collected by the District through the sale of consumptive use may be used to purchase, from a willing seller, additional consumptive use to be placed in the water bank.

10.2.7 Consumptive use reductions that are being used to offset depletions to streamflow due to uses initiated after July 1, 1997, in the overappropriated area are not eligible to be put into the water bank for use elsewhere.

10.2.8 When fully appropriated status is achieved in the overappropriated area, consumptive use reductions are eligible to be put into the District water bank for use elsewhere.

10.2.9 The consumptive use from the water bank can only be transferred within county lines and within that portion of the subarea division within the county.

10.3 Monitoring Program

10.3.1 The objective of the monitoring program is to gather and evaluate data, information, and methodologies that could be used to increase understanding of the surface water and hydrologically connected ground water system, and test the validity of the conclusions and information upon which the integrated management plan is based.

10.3.2 In areas where ground water and surface water are hydrologically connected, measures of the quantity of ground water and surface water cannot be evaluated separately. Ground water levels, stream stage and discharge, and water levels in wetlands or other surface water bodies are all affected by changes in the overall water

balance for the basin. The influence of ground water pumping and surface water diversions are reflected in changes to stream discharge and stage, and in aquifer water levels.

10.3.3 Water Balance Data Requirements

10.3.3.1 The minimum data requirements to estimate the water balance for a geographic area can be supplied from the following data sources: 1) ground water levels; 2) precipitation and climate; 3)surface water flows; 4) ground water pumping; 5) recharge/return flows; 6) canal/reservoir operations; 7) evapotranspiration; and 8) geologic/ hydrologic information.

10.3.3.2 Data in each of these categories will continue to be collected by the District and the Department and can be used to estimate available water supplies in relation to current demands.

10.3.4 The following tools will be used by the District and the Department to measure progress toward the goals and objectives of this plan:

10.3.4.1 Streamflow and historical gauging station data;
10.3.4.2 Comparison of average ground water levels from 1988-1997 with the most recent three (3) years of data;
10.3.4.3 Normalized precipitation;
10.3.4.4 Remote sensing technology to produce consumptive water use maps;
10.3.4.5 Utilization of the COHYST model to analyze data and perform runs as necessary;
10.3.4.6 Annual analysis of all data gathered; and
10.3.4.7 Other tools and technologies as they become available.

10.4 Information and Education

10.4.1 The District and the Department will provide educational materials to the public concerning this integrated management plan, the Nebraska New Depletion Plan, and hydrologically connected ground water and surface water. Public meetings will be held throughout the District concerning these issues as the need arises.

10.5 Variances

10.5.1 Unless otherwise provided by law or these rules and regulations, the Board or the Department may grant a variance from these rules and regulations upon good cause shown. Offsets will be required for new or expanded uses, with the exception of municipal and industrial uses, and the offset must be identified in the variance request.

10.5.2 Expedited Variance

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

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

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

10.6 Coordination with Adjacent States

10.6.1 The District and the Department will work with the states of Wyoming and Colorado to address water management concerns that affect the District.

10.7 Review of and Modifications to the IMP

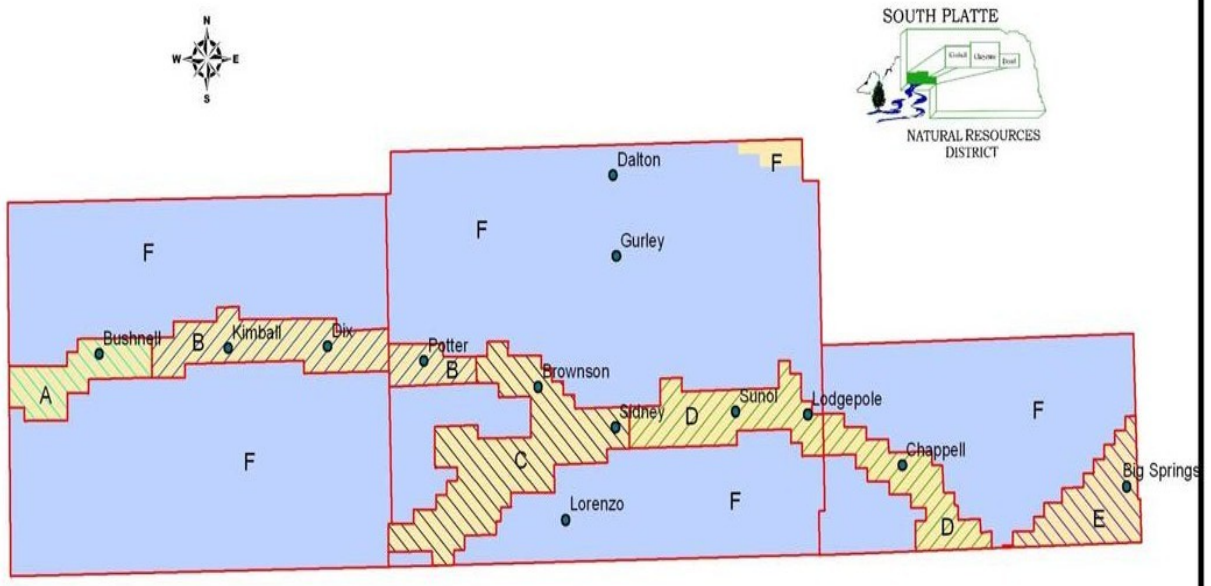
10.7.1 The progress being made toward achieving the goals and objectives will be reviewed annually, or as necessary, by the District and the Department to determine if amendments need to be made to the IMP.

10.7.2 Modifications to this IMP including the rules and regulations contained within will require an agreement by both the District and the Department as to the proposed changes. After the proposed changes have been agreed to, a joint hearing on those changes will be required. Following the joint hearing, the District and the Department will adopt by order the amendments to the plan.

10.8 Information Considered in Developing the IMP

10.8.1 Information used in the preparation and to be used in the implementation of this integrated management plan can be found in the Order of Final Determinations of River Basins, Subbasins, or Reaches as Fully Appropriated, and Describing Hydrologically Connected Geographic Area in the Matter of the Portion of the Platte River Basin Upstream of the Loup River Confluence, the North Platte River Basin, and the South Platte River Basin within the South Platte Natural Resources District, the Twin Platte Natural Resources District and the Central Platte Natural Resources District, the Order Designating Overappropriated River Basins, Subbasins, or Reaches, and Describing Hydrologically Connected Geographic Area in the Matter of the Platte River Basin upstream of the Kearney Canal Diversion, the North Platte River Basin, and the South Platte River Basin, the SPNRD Ground Water Management Plan and additional data on file with the District and the Department.

Map 1
SOUTH PLATTE NATURAL RESOURCES DISTRICT
Integrated Management Area Boundaries



Legend

- Overappropriated
- Fully Appropriated
- Subarea Divisions
- A - Wyoming State Line to Oliver Reservoir (RD 27)
- B - Oliver Reservoir to Buffalo Bend (RD 87)
- C - Buffalo Bend to Sidney (RD 115)
- D - Sidney to Colorado State Line
- E - South Platte Valley
- F - Tablelands

The area (F) in Northeast Cheyenne County is both Overappropiated and within the Tablelands subarea.

Map 2
SOUTH PLATTE NATURAL RESOURCES DISTRICT

Overappropriated Area
Fully Appropriated Area
Nebraska New Depletion Plan Area