

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

## **IRRIGATION RUNOFF CONTROLS**

### **CHAPTER 1 GENERAL PROVISIONS**

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

### **CHAPTER 2 DEFINITIONS**

- 2.1 Board or board of directors means the board of directors of the Little Blue Natural Resources District.
- 2.2 Compliance officer means an employee, agent or director of the District authorized to perform the functions assigned thereto by these rules and regulations.
- 2.3 District means the Little Blue Natural Resources District.
- 2.4 District representative means an employee of the District or other persons specifically authorized by the District Board of Directors to act on behalf of the District with regard to these rules.
- 2.5 Groundwater means that water which occurs or moves, seeps, filters or percolates through the ground under the surface of the land and includes groundwater which becomes commingled with waters from surface water sources.
- 2.7 Groundwater user means a person who at any time extracts, withdraws or confines groundwater for any use at a rate in excess of fifty (50) gallons per minute.
  - 2.7.1 Whenever the landowner and operator are different, the term "groundwater user" will mean both the landowner and the operator.
- 2.8 Improper irrigation runoff means the occurrence of irrigation runoff water which
  - 2.8.1 causes or contributes to the waste of groundwater
  - 2.8.2 causes the accumulation of water upon or beneath the surface of the lands of any other person(s) and causes visible physical damage or nuisance or
- 2.9 Irrigation runoff water means groundwater used for irrigation purposes which escapes from land owned, leased or otherwise under the direct supervision and control of a groundwater user:
  - 2.9.1 Groundwater which becomes commingled with surface water runoff will be treated as irrigation runoff.
- 2.10 Operator means a person who operates irrigated or dryland properties for the production of agricultural, horticultural, silvicultural or nursery products.

- 2.11 Person means a natural person, partnership, association, corporation, municipality, irrigation district or any agency or political subdivision of the state.
- 2.12 Water Well means any artificial opening or excavation in the ground through which groundwater flows under natural pressure or is artificially withdrawn:
  - 2.12.1 A series of wells developed and pumped as a single unit will be considered as one well.

**CHAPTER 3**  
**COMPLAINTS**

- 3.1 Any person who owns, rents or leases land or resides within the District; or any non-resident person who can show the actions of any operator or groundwater user with-in the District directly affects him or her; or a district representative may file a complaint.
  - 3.1.1 Complainants are urged to notify the alleged violator of possible damages or nuisance, and attempt to resolve the problem voluntarily without a written complaint.
- 3.2 If voluntary attempts to resolve the runoff problem fail, a written complaint may be filed by the complainant against the operator or groundwater user alleging a violation of rules and regulations adopted pursuant to the Ground Water Management and Protection Act.
- 3.3 Complaints must be filed at the Little Blue Natural Resources District Office, 100 E. 6<sup>th</sup> Street, Davenport, Nebraska 68335, or directly with a District representative, on complaint forms prepared by the District.

**CHAPTER 4**  
**INSPECTIONS AND INVESTIGATIONS**

- 4.1 If the nature of the alleged violation requires an on-site inspection, said inspection must occur within 48 hours after the complaint is filed (excluding Saturdays, Sundays and legal holidays).
- 4.2 The compliance officer or person designated by the compliance officer, upon proper identification and after delivering a copy of the complaint to the persons in control of the land, is authorized to enter upon the land for the purposes of making an inspection of the alleged violation.
- 4.3 Upon completion of the investigation, the compliance officer will file a report of his or her findings in the District office and will deliver a copy of said report to the alleged violator and to the complainant (if other than the board) in person or at their places of residence, or it will be sent to them by certified mail.

**CHAPTER 5**  
**INSPECTION REPORT AND ALTERNATIVE ACTIONS**

- 5.1 If the compliance officer finds that there is reasonable cause to believe that the alleged violator was at the time of inspection or was at the time complained of, in violation of District rules and regulations, said compliance officer's report will be accompanied by a formal notice of the alternative actions available to the alleged violator which will be as follows:

- 5.1.1 Accept the compliance officer's report and consent to cease and desist from continuing or allowing the reoccurrence of such violation; or
    - 5.1.2 Request that an opportunity to be heard be scheduled before the Board and conducted in accordance with the rules and regulations of the District.
- 5.2 If the compliance officer's report finds that a violation of these rules and regulations has not occurred, the complainant will be notified of the alternatives available in the same manner as provided for the alleged violator. The complainant's alternatives are as follows:
  - 5.2.1 Accept the compliance officer's findings that there has been no violation of these rules and regulations; or
  - 5.2.2 Request that an opportunity to be heard be scheduled before the Board and conducted in accordance with the rules and regulations of the District.
- 5.3 The alleged violator or complainant will be granted not less than seven (7) days (excluding Saturdays, Sundays and legal holidays), from the date that said report and notice is received by him or her to respond in writing indicating any actions intended.

## **CHAPTER 6**

### **CONSENT TO CEASE AND DESIST**

- 6.1 If the alleged violator agrees under Chapter 5, paragraph 1.1 of these rules and regulations, he or she must submit a schedule of compliance which must provide for the discontinuance and/or no reoccurrence of the violation.
- 6.2 For violations relating to improper irrigation runoff, such schedule of compliance must include the identification and description of all proposed procedures or measures to prevent, control or abate improper irrigation runoff.
  - 6.2.1 Such procedures or measures must include one or more of the following:
    - 6.2.1.1 irrigation scheduling using a District approved method;
    - 6.2.1.2 construction and utilization of runoff collection and/or retention systems such as furrow dikes, berms, reuse pits or dugouts;
    - 6.2.1.3 conversion of gravity irrigation to pivot or subsurface drip irrigation;
    - 6.2.1.4 discontinue or alter operation of center pivot end gun or dump valve;
    - 6.2.1.5 conversion to dryland; or
    - 6.2.1.6 execution and performance of an agreement in accordance with Chapter 11 of these rules and regulations.
- 6.3 For violations other than improper irrigation runoff, such schedule of compliance will include actions necessary to prevent the continuance or reoccurrence of said violations.
- 6.4 The alleged violator must agree to implement and abide by the terms of such schedule.

## **CHAPTER 7**

### **COMPLIANCE ORDER**

- 7.1 When an alleged violator has consented to cease and desist in accordance with Chapter 5, paragraph 1.1, the compliance officer shall issue a compliance order to the alleged violator. Said order shall include the schedule of compliance and shall instruct the alleged violator that he or she shall permanently cease and desist from any reoccurrence of the alleged violation.

- 7.2 If at any time subsequent to the issuance of the compliance order, following an investigation as provided in Chapter 4, the compliance officer believes that a violation has reoccurred he or she shall report to the Board.

**CHAPTER 8**  
**BOARD ACTION SUBSEQUENT TO REQUEST TO BE HEARD**

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

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

- 9.1 When an alleged violator has been notified in accordance with Chapter 5 of these rules and regulations and such alleged violator has failed to respond thereunder or has failed to request an opportunity to be heard, the board will review the complaint and the inspector's report as well as any other pertinent information and issue such order or orders in accordance with these rules and regulations as are deemed appropriate.

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

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

**CHAPTER 11**  
**AGREEMENTS BETWEEN GROUNDWATER USERS**

- 11.1 A groundwater user whose irrigation runoff water is capable of being captured and utilized by another person in a manner which will prevent waste of such water or accumulation of water on the land of any other person without his consent, may have such water excluded from the definition of improper irrigation runoff water by submitting to the District an agreement providing for such capture and utilization signed by all affected parties, on forms provided by the District.
- 11.2 When such agreement is approved by the District, it will indicate the District's

concurrence that the groundwater user's irrigation runoff water is under adequate control.

- 11.3 Such agreement may be terminated at any time by either party or by the District whenever it determines that such agreement no longer prevents or controls improper irrigation runoff water or accumulation of water on the land of any other person without his consent.
- 11.4 The party terminating the agreement must provide written notice to all other parties involved in the agreement.

**EFFECTIVE DATE**

These Rules and Regulations are hereby adopted by the Little Blue Natural Resources District this 14th day of August, 2018. These Rules and Regulations shall be effective commencing on September 15, 2018 and shall remain in full force and effect until repealed, amended, or superseded.

**Approve by the Little Blue NRD Board of Directors**

**Signature:** (S) Randy Uhrmacher  
**Chairman**

**Signature:** (S) Ed Fleharty      **Date:** August 14, 2018  
**Secretary**