

Order Adopting Amendments to the Ground Water Management Area Rules and Regulations In the Upper Niobrara White Natural Resources District

A public hearing was held on Thursday, May 20, 2010, for the purpose of receiving public testimony and other evidence regarding the Upper Niobrara White Natural Resources District (UNWNRD) proposed amendments to the Ground Water Management Area (GWMA) Rules and Regulations. Public notice was given as required by law and the hearing record remained open until June 3, 2010, to receive written testimony and other evidence.

The UNWNRD having considered the testimony and evidence presented at the public hearing shall adopt the amendments to the GWMA Rules and Regulations pursuant to *Neb. Rev. Stat. § 46-712*, and all other applicable Nebraska law.

The proposed amendments included in the GWMA Rules and Regulations are as follows: Applicability – proposed amendments include incorporating language on the background of natural resource districts and to clarify connection of these controls with the District’s Integrated Management Plan (IMP); Map – added section to clarify the geographic area these rules are applicable to; Definitions – proposed amendments to this section are to incorporate new definitions and to modify existing definitions related to the proposed amendments in these rules; General Provisions and Procedures for Enforcement – proposed amendments include language to clarify enforcement procedures and the sanctions that may be imposed through enforcement actions; Inspections – amendments added to clarify the procedures for conducting compliance inspections; Ground Water Controls – 1) ground water quality monitoring – outlines how the District will implement procedures to monitor and protect the quality of ground water within the GWMA; 2) chemigation – outlines the procedures for applying for and receiving approval to apply chemicals through an irrigation distribution system as well as procedures for inspections and enforcement of compliance; 3) ground water quantity monitoring – outlines the ground water management phases and controls the District will implement, if ground water declines reach the trigger levels for more restrictive management options, to prevent further declines ; 4) a moratorium on the issuance of water well construction permits; 5) moratorium on the expansion of ground water uses; 6) general guidelines for ground water transfer – language has been added to clarify the transfer rules; transfers are proposed to be changed to a limit of a three (3) square mile area (illustrated in Figures 1-3 of the rules) and transfers may occur only once during an allocation period to or from a tract of land, including a) physical transfer of ground water off of the overlying land, b) transfer use, c) transfer of certified acres, d) transfer of type of use or addition of use of ground water, e) agricultural transfers, f) municipal transfer permits, g) industrial transfer permits, h) transfers out of state, i) application for and approval of transfers; 7) certification of ground water use, including irrigated acres; 8) flow meters – including language to outline the flow meter installation requirement timeline, amendments to clarify the penalties that may be imposed if flow meter installation and compliance is not maintained and an additional installation height requirements for replacement meters; 9) municipal and industrial use – language added to identify that the District will account and track municipal and industrial uses and offsets using the system set up in the IMP; and 10) a large user permit – outlines the procedure to apply for and receive a permit to withdraw and consumptively use ground water in the amounts greater than twenty-five (25) million gallons; Pooling of Irrigated Acres – proposed amendments include not allowing pooling of irrigated acres following the 2007-2010 allocation period; except for the certified irrigated acres that are irrigated from the same regulated well will be considered one (1) unit for purposes of allocation, if irrigated tracts of land and wells are identified and reported to the District;

Allocation – amendments proposed include language to clarify the allocation of ground water, the change in the base allocation for the 2011-2014 allocation period to fifty-four (54) acre-inches, which is an annualized allocation of 13.5 acre-inches; changes the maximum amount of carry forward allowed following the 2011-2014 allocation period to be fifty (50) percent of the then current allocation; Variances – clarifying language as to variance granting and potential water use offset requirements; Ground Water Banking – added section to clarify how the District would account for reductions or increases in ground water consumption and to stay consistent with the IMP; Monitoring Program – added section to develop a program in which to gather and evaluate data, information and methodologies to increase understanding of the ground water system; and Information and Education – added section to identify how the District will disseminate educational information.

PURSUANT TO THE AUTHORITY GRANTED IN *Neb. Rev. Stat. § 46-712*, IT IS HERBY ORDERED BY THE UNWNRD:

1. That the proposed amendments to the Ground Water Management Area Rules and Regulations be adopted and shall be implemented by the UNWNRD.
2. This Order shall become effective on July 7, 2010.

During regular business hours, copies of the full text of the GWMA Rules and Regulations may be obtained at the UNWNRD office, located at 430 East Second Street, Chadron, Nebraska 69337. A copy of the GWMA Rules and Regulations can also be viewed on the Upper Niobrara White NRD's website at the following address: <http://www.unwnrd.org>

This Order shall be published once each week for three consecutive weeks in a local newspaper published or of general circulation in the area involved, the last publication of which shall be no less than seven days prior to the date set for the effective date of the Order, in accordance with *Neb. Rev. Stat. § 46-744*.

DATE: June 10, 2010

**UPPER NIOBRARA WHITE
NATURAL RESOURCES DISTRICT**

BY: _____
Jim Irwin, Chairman

Please Publish June 16, 2010 and June 23, 2010 and June 30, 2010