

Middle Niobrara Natural Resources District Rules and Regulations for the Implementation of LB 483 (Neb. Rev. Stat. § 46-714(12) 2009).

Adopted September 12, 2011

Effective Date October 4, 2011

1. PURPOSE AND AUTHORITY: The purpose of these rules and regulations are, in accordance with Neb. Rev. Stat. § 46-714(12) and §46-707(1), to:
 - a. Limit the number of new permits so that total new ground water irrigated acres do not exceed 2,500 acres, or equivalent water use, on an annual average basis from 2011-2014.
 - b. Maintain the status of not fully appropriated based on the most recent basin determination under Neb. Rev. Stat. § 46-713.
2. Acre Limitation: If in any one year the total number of new irrigated acres is less than 2,500, the difference between 2,500 acres and the new irrigated acres may be carried forward for development in future years. Under no circumstance shall the total number of new irrigated acres exceed 10,000 over the four years following the adoption of this rule.
3. LIMITATION ON DEVELOPMENT OF IRRIGATED ACRES: Effective immediately, there shall be no development of groundwater irrigated acres within the Middle Niobrara NRD. Such activity is strictly prohibited unless the development is approved by the Middle Niobrara NRD in accordance with these rules and regulations.
4. ENFORCEMENT: The Middle Niobrara NRD will enforce the limitation described in Section 2 of these rules and regulations consistent with its authority under the Nebraska Ground Water Management and Protection Act and the District's rules and regulations, including, but not limited to, Neb. Rev. Stat. § 46-707(1)(g). A violation of these provisions may be grounds for denying an application to develop new groundwater irrigated acres under the ranking criteria set forth below.
5. WELL PERMITS: If a request for the development of new irrigated acres requires the installation of a new groundwater well, the respective well permit application will not be deemed complete until authorization is granted by the Middle Niobrara NRD for the development of those irrigated acres.
6. PROCESS FOR APPLICATIONS TO DEVELOP IRRIGATED ACRES: The process for requests to develop new groundwater irrigated acres and/or uses shall be as follows:
 - a. The application period to apply for new groundwater irrigated acres shall be from November 1 through December 20th of each year (2011-2014).
 - b. Applicants will be notified of the status of their request within 14 days after the January MNNRD Board meeting following the application period for each year.
 - c. The application shall be made on forms provided by the district.
 - i. The application shall include the most recent aerial photo delineating the new acres being applied for and, as applicable, the location of the new or existing well to be used.
 - ii. The application shall be accompanied with a non-refundable filing fee of \$500.
 - iii. The application shall be signed by the current landowner or person holding power of attorney.
 - iv. The application is non-transferable.
 - v. The application does not include the permit fee to construct a well.

- vi. For any other use other than an irrigated crop field, the application must include a description of the annual water consumptive use and source of the information.
- vii. The application may be declined if it is incomplete.

7. RANKING CRITERIA: The applications shall be ranked based on criteria set by the Middle Niobrara NRD. Items to be considered include, but are not limited to:
- i. Stream depletion factors
 - ii. Compliance with NRD Rules and Regulations
 - iii. Static Water Level Area
 - iv. Number of wells needed
 - v. Type of irrigation

Points will be awarded based on the above criteria as set forth in the attached ranking sheet identified as appendix A. Applicants must score at least 25 points on the ranking sheet to be approved.

8. Tie Breaker Criteria: If there are applications for the development of new irrigated acres and/or uses that have the same score under the ranking system, preference will be given to the application scoring the highest on item number 1 of the ranking criteria. If a tie score still exists preference will be given to the application scoring the highest on item number 2 of the ranking criteria and so on until the tie is broken.
9. Restricted Areas: No new irrigated acres and/or uses will be allowed in areas deemed by the MNDRD as having declining static water levels as identified in appendix B.
10. Number of Applications: Landowners may submit 2 applications (1 field of 160 acres or 160 acre feet of consumptive use or less) per application, per year. If the 2,500 acre maximum is not met, landowners with a second application will be considered for the remaining acres. Maximum of 2 applications per landowner per year.
- a. Landowner is defined as any individual, corporation, limited liability company, partnership, other entity or trust.
 - i. For the purpose of this rule, if an individual and any member of his or her immediate family owns and controls, directly or indirectly, more than fifty percent (50%) of the said acres, either individually or through a corporation, limited liability company, partnership, other entity or trust, such acres will be considered owned by the applicant. A member of one's family shall include spouses, children, and lineal descendants of the same.
11. Number of wells: No more than 2 wells per field will be allowed.
12. Certification of Irrigated Acres: The certification of the new irrigated acres and/or uses must be completed with the Middle Niobrara NRD by May 1 and before a well application will be granted.
13. Well Completion: If a new well is granted, proof that the new well has been completed must be submitted to the Middle Niobrara NRD by October 15th of the same year that the well permit was issued. Proof shall mean a registration number issued by the Nebraska Department of Natural Resources and/or a site visit by a staff member of the Middle Niobrara NRD.
14. FLOWMETERS REQUIRED: Installation of a flowmeter approved by the Middle Niobrara NRD and yearly reporting of water usage to the District is required as a condition of approval of any application for the

development of new groundwater irrigated acres and/or uses. Flow meters will be used for the purpose of acquiring water use data to better manage the resource. Annual Spring and Fall static water level measurements taken by the MNNRD will be required.

15. GRANTED APPLICATIONS: Applications granted under these provisions are deemed unique and special with regard to the specific application, and do not create a precedent for future applications or matters pertaining to other lands, whether or not they are similarly situated.
16. CANCELLATION OF APPROVED APPLICATION: The Middle Niobrara NRD may cancel or void an approved application at any time for violation of the District's rules and regulations.