

# UPPER ELKHORN The Oracle

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Natural  
Resources  
District

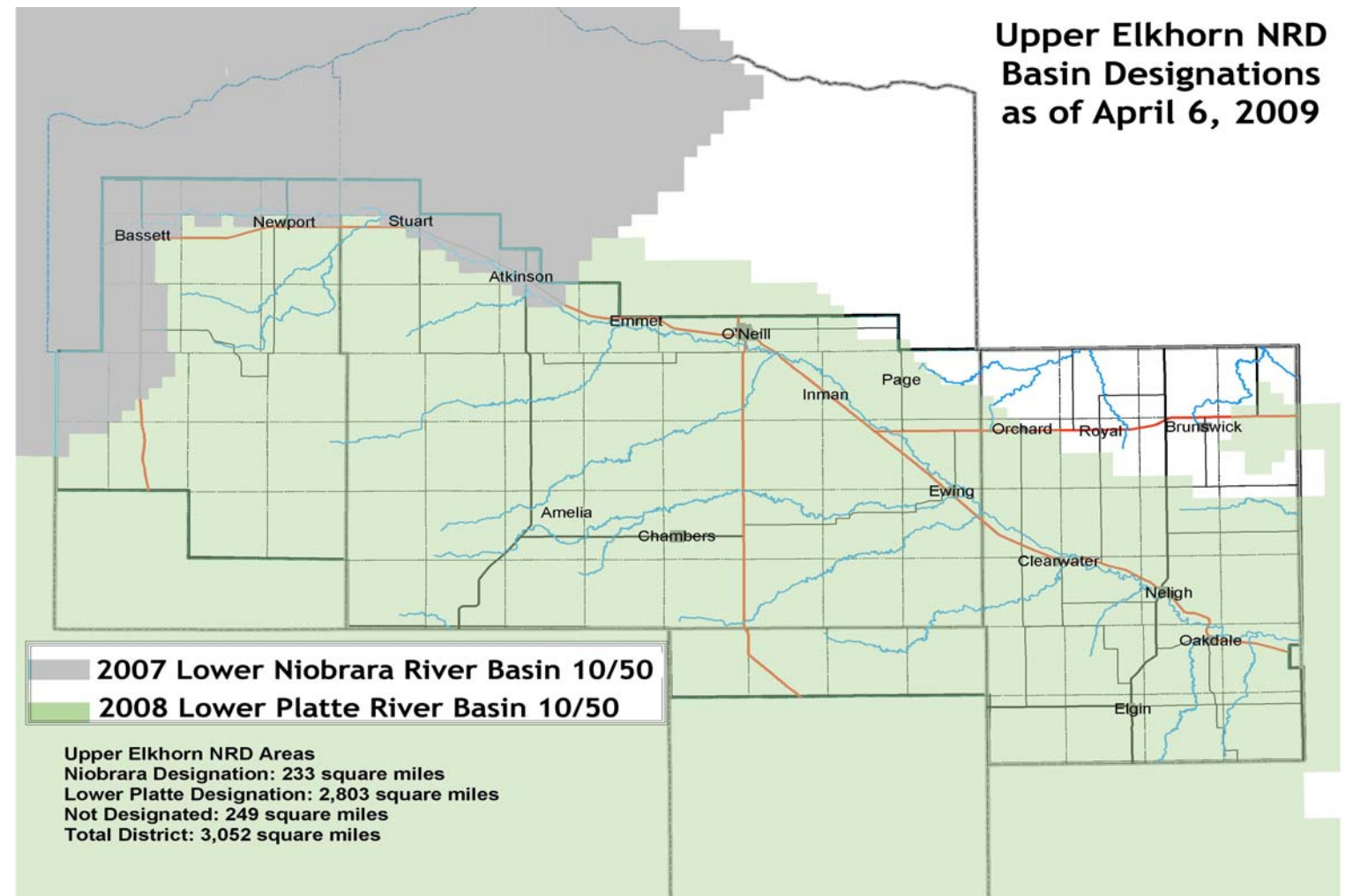
Fall & Winter 08-09

## What's Going On with UENRD Water Issues

### DNR declares Lower Platte Basin Not Fully Appropriated & Nebraska Lawmakers Pass LB 483 to restrict water use!

LB 962, passed by State Lawmakers in 2004, requires the Department of Natural Resources to make an annual evaluation of the river basins in Nebraska that have not been designated fully or over appropriated. On December 16, 2008, the Director of the Department of Natural Resources preliminarily determined that the Lower Platte Basin, which includes the Upper Elkhorn NRD to be "fully appropriated". The designation meant that the State believed that there was just enough water in the basin to meet the current needs and uses. An immediate moratorium was placed on the basin which meant no new high capacity wells or increase in irrigated acres would be allowed.

As a result of the designation, nine NRDs including the Upper Elkhorn NRD challenged the results of the evaluation. During the public hearing process, the NRDs commissioned a third party review of the data and statutes used to make the determination. The information uncovered by the third party review was then presented to the Department of Natural Resources at a public hearing held March 12 in Columbus. This review raised concerns regarding the scientific data used in the evaluation and the interpretation of the statutes also used in the evaluation. This review questioned the interpretation of DNR statutes and Rules and



Upper Elkhorn NRD  
Basin Designations  
as of April 6, 2009

Regulations used in the evaluation, data used to calibrate the ELM Model and whether or not the science could be replicated in the evaluation.

Brian Dunnigan, DNR Director, issued an Order of Final Determination, on April 8, 2009 that the Lower Platte River Basin was not fully appropriated. However, due to the passage of LB 483, April 6, 2009, new restrictions have been issued for the basin. As a result of the new legislation, the Lower Platte River Basin remains under a stay for new high capacity well development or the increase of irrigated acres.

LB 483 does allow for limited ground or surface water development if a designation of preliminary or fully-appropriated is lifted. and allows the affected Natural Resources Districts 120 days to develop rules and regulations for the expansion of ground water consumptive uses. The Upper Elkhorn NRD is moving forward to allow expansion of new ground water uses as proposed in the "Rules & Regulations". The new ground water development (use) being proposed would be limited to 2500 acres annually for years 2009-2012. There will

be a protocol and a ranking system for the expansion of these annual acres. Currently, the Upper Elkhorn NRD is not accepting any applications for expansion of new acres. The Nebraska Department of Natural Resources will also be developing criteria that allows development of 834 acres annually from surface water.

The Upper Elkhorn NRD will hold a public hearing on June 25<sup>th</sup>, 2009 at 7:00PM, in the Knights of Columbus Hall in O'Neill to discuss the proposed rules and regulations. A complete copy of the proposed rules and regulations are available

upon request by mail, in person at the District office, or on the District's website at [www.uenrd.org](http://www.uenrd.org). The Upper Elkhorn NRD address is 301 North Harrison, O'Neill NE 68763 or telephone number is 402-336-3867.

**Public Hearing  
on UENRD LB  
483 Rules &  
Regulations  
June 25, 2009  
at the Knights  
of Columbus  
Hall in O'Neill  
@ 7:00 PM**

## UENRD Awards Senior Scholarships

Each year the Upper Elkhorn Natural Resources District awards three scholarships to graduating high school seniors in the district. These are students who have chosen to pursue a career in a field related to agriculture or natural resources. This year's recipients are Nathan Dierks of Pope John Central Catholic High School; Tad Judge of West Holt High School; Zach Sibbel of St. Mary's High School; and, alternate Luke Thiele of Clearwater High School.

Nathan Dierks is the son of Chris and Suzanne

Dierks of Ewing. Nathan plans to attend the University of Nebraska-Lincoln where he will pursue a career in Biology as it relates to wildlife and agriculture. The second scholarship recipient, Tad Judge, is the son of Troy and Melody Judge of Emmet. Tad is planning to attend South Dakota State University or the University of Nebraska-Lincoln where he plans to study Range Science. And, the final scholarship recipient is Zach Sibbel, son of Jim and Carol Sibbel of O'Neill. He is planning to attend the University of Nebraska-Kearney and

study Agri-business. The alternate scholarship winner for this year is Luke Thiele, son of Ron and Karol Thiele of Clearwater. Luke is planning to attend the University of Nebraska-Lincoln and study Agri-business. Scholarship winners will receive a scholarship in the amount of \$500 to help defer costs during their first year of College. The Upper Elkhorn NRD would like to congratulate the 2009 Senior Scholarship Winners and wish them good luck in achieving their future goals.

## West Holt High School Attends 10th State Envirothon



2009 West Holt High School Team members working in the Soil Pit at the Nebraska State Envirothon Competition.

West Holt High School began qualifying for the state Envirothon in 1997 by winning the Northeast Regional Competition. Since then West Holt has qualified 10 out of the last 13 years with their best finish occurring in 2004 when they placed runner-up to Norris High School, the only other school in Nebraska to attend more Envirothon competitions than West Holt.

Ponca State Park was the host site for the 2009 Nebraska Envirothon. The Envirothon is a program for 9th-12th grade students designed to promote awareness about our natural environment. Students compete in a contest that tests their knowledge on a wide array of subjects relating to natural resources and the environment. Seven Regional Envirothon competitions are held across Nebraska in the early spring. The winning five-member team from each regional competition is then invited to represent their region at the Nebraska State Envirothon Competition. Seven additional Wildcard teams are also invited based on their scores. West Holt High School qualified for the Nebraska State Envirothon by having one of the highest wildcard scores. The top twelve high school teams participating in this year's State Envirothon include; West Holt, Norris, Concordia Teams 1 & 2, Ord, Superior High Teams 1 & 2, Bellevue East Teams 1&2, Hartington, Scottsbluff and Bellevue West.

During the State Envirothon, each team was tested in seven environmental areas, which included: Aquatics, Forestry; Policy; Range; Soils; Wildlife; and, an Oral presentation involving Biodiversity in a Changing World. The teams competed for top honors at each of the seven stations with the team with the overall high score winning the right to represent Nebraska at the Cannon Envirothon, which will be held in Asheville, North Carolina. This year's winner of the Nebraska Envirothon competition was the team from Ord High School.

## UENRD Receives Environmental Trust Grant

The Upper Elkhorn Natural Resources District would like to announce that it will receive \$35,000 from the Nebraska Environmental Trust for the "Irrigation Water Management Monitoring Program". The Trust Board announced funding for the project at its meeting on April 2, 2009 in Lincoln. This is the second year of the award with a potential for a third year of funding totaling \$105,000. The project is one of the 82 projects receiving \$15,065,944 in grant awards from the Nebraska Environmental Trust (NET) this year.

The project will use Environmental Trust funds to assist irrigators who currently have wells that are involved with the District groundwater quality or quantity monitoring programs located in the UENRD to install water meters on their irrigation systems. The District plans to administer a cost-share program that will combine NET funds with UENRD

funds to install flowmeters at approved sites during the next two years. The result of this allocation of funds will be a direct comparative between the amounts of water pumped across the District to the average static water level change from a year to year basis. The primary category of the Environmental Trust addressed through this project will be the conservation of surface and groundwater resources.

The project will have a wide and lasting impact. Each cooperating irrigator who installs the meter has the potential to reduce pumping and labor cost. Less pumping will result in less consumption of fuels. Therefore, the long term benefits to the aquifer will be measured in both quality and quantity of the groundwater and stable supplies of clean groundwater benefits to the farmer, the environment and the general public. A

greater awareness of the volume of water needed to sustain irrigated agriculture will provide planners and decision makers, such as the UENRD Board and state officials with another piece of information needed to make better policy decisions with regard to groundwater conservation.

The Nebraska Legislature created the Nebraska Environmental Trust in 1992. Using revenue from the Nebraska Lottery, the Trust has provided over \$142 million in grants to 1,134 projects across the state. Anyone – citizens, organizations, communities, farmers and businesses – can apply for funding to protect habitat, improve water quality and establish recycling programs in Nebraska. The Nebraska Environmental Trust works to preserve, protect and restore our natural resources for future generations.



The Nebraska  
Environmental Trust

preserving NATURAL NEBRASKA™ for future generations

# Cost Share Eligibility Requirements

Any person who fails to comply with any of the Upper Elkhorn Natural Resources District's Rules and Regulations shall not be eligible to participate in any programs or receive payments that are administered by the District. Programs requiring compliance include but are not limited to the following: UENRD Groundwater Management Plan - Phase I and Phase II Rules & Regulations; Chemigation

Act; Irrigation Runoff and Erosion and Sediment Control. Cost share programs that may be affected due to lack of compliance include but are not limited to the following: Nebraska Soil and Water Conservation Program; Upper Elkhorn NRD Conservation Program - Land Treatment Fund; WILD Nebraska/Wildlife Habitat Improvement Program; Nebraska Buffer Strip Program; Corners for Wildlife;

Liquid/NH<sub>3</sub> Application Program; Livestock Manure Analysis Program; Domestic Water Quality Program; Nitrogen Management Program; and, the Water Well Decommissioning Program. Anyone who is already a participant in any of these programs or may be a participant will not receive any payments as long as they fail to comply with any District rules and regulations.

# Sign Up Underway for NRD Cost Share Programs

Anyone wishing to participate in an Upper Elkhorn NRD cost share program should contact the Upper Elkhorn NRD office or their local NRCS office. Cost share is available for the installation of the practice itself and will not include any sales tax on the materials or labor. Cost share programs available include:

**NSWCP/NRD:** The UENRD in conjunction with the Department of Natural Resources offers cost share practices to landowners wishing to install conservation practices. Some practices included in the program are: windbreaks; planned grazing systems; irrigation water management; pasture planting and range seeding; grade stabilization; and, windbreak renovation. Cost share is available at a rate of 50%.

**Anhydrous Ammonia Application:** The UENRD offers 50% cost share to landowners for the purchase of a flow control monitor not to exceed \$900; and, \$200 for the purchase of a vertical dam manifold.

**Livestock Manure Analysis:** The UENRD offers 50% cost share not to exceed \$200 for manure analysis to credit useful materials into the soil.

**Nitrogen Management:** The UENRD offers 50% cost share not to exceed \$200 to cooperators to encourage producers to manage fertilizer application better by accounting for residual nitrate-nitrogen which already exists in the soil root zone and irrigation water.

**Water Well Decommissioning:** The UENRD in conjunction with the Department of Natural Resources offers cost share funds at a rate of 75% to landowners who wish to properly decommission an abandoned well.

**Domestic Water Quality:** The UENRD offers cost share to cooperators whose drinking water is contaminated with nitrates over the federal health standard of 10 parts per million. Cost share is available at a rate of 50% or a maximum of \$800.

**Cost share applications are approved by the Upper Elkhorn NRD Board of Directors and available on a first come first serve basis and does not include sales tax.**

# Attention Chemigators

There seems to be some confusion with the updates to the UENRD Chemigation Program. Anyone who permits a chemigation site this year will receive pre-printed renewal forms for the 2010 chemigation season. These forms will contain the landowner information, certified chemigator and legal

description. Cooperators receiving these forms will need to make sure the pre-printed information is correct, list any fertilizer or chemicals used the previous year (2009) through the system, sign and return with the proper fee. Renewal forms sent out are nontransferable. If you rent different quarters from year to year, you will

need to fill out new forms for the rented quarters with your information; however, this does not mean it would be a new fee. If the quarter was permitted the previous year it would still be a renewal. If you are not sure of the status of a quarter you can contact the NRD office for this information. If you are no longer farming a quarter, you may either return the form with a notation that you are not farming that quarter this year or completely disregard the form in question. Also, cooperators should not alter the pre-printed forms with a different legal description because this will not match the chemigation permit number attached contained on the form. Pre-printed renewal forms may be returned to the NRD office anytime from the time they are received to the June 1 deadline to maintain their renewal status. If you have any questions please contact the NRD office at 336-3867.

## Upper Elkhorn Natural Resources District Board of Directors

Dale Wiles - Chairman	Subdistrict 3 ~ O'Neill	(402) 336-2338
Tim Knuth - Vice Chair	Subdistrict 5 ~ Brunswick	(402) 358-5430
Gregg Felker - Treasurer	Subdistrict 3 ~ O'Neill	(402) 336-2864
Ted Hughes - NARD Rep	Subdistrict 6 ~ Neligh	(402) 887-4942
Jerry Childers	Subdistrict 4 ~ Chambers	(402) 482-5688
Chris Dierks	At Large ~ Ewing	(402) 485-2618
James Dvorak	Subdistrict 2 ~ Atkinson	(402) 925-5776
Janet Koinzan	Subdistrict 7 ~ Elgin	(402) 843-2410
Curtis Gotschall	Subdistrict 2 ~ Stuart	(402) 925-2504
Reg Green	Subdistrict 5 ~ Creighton	(402) 358-5479
Jim Keller	Subdistrict 1 ~ Newport	(402) 244-5448
Jerry Heithoff	Subdistrict 7 ~ Elgin	(402) 843-2467
Jeff Krebs	Subdistrict 6 ~ Neligh	(402) 887-5215
Mike Russman	Subdistrict 4 ~ Ewing	(402) 485-2638
Roy Stewart	Subdistrict 1 ~ Newport	(402) 244-5360

*UENRD Board Meetings are held the 4th Monday of every month.*

*March through October at 8:00 P.M. and November through February at 2:30 P.M.*

## UENRD Staff

Dennis Schueth	General Manager e-mail: dschueth@uenrd.org
Marsha Hart	Administrative Assistant e-mail: mhart@uenrd.org
Tylr Naprstek	Water Resources Manager e-mail: tnaprstek@uenrd.org
Kelly Kloppenborg	Water Resources Technician e-mail: kloppenborg@uenrd.org
Don Caouette	Assistant Manager e-mail: caouette@uenrd.org
Beth Walsh	Information & Education/Chemigation Coordinator e-mail: bwalsh@uenrd.org
Joy Knapp	NRCS Clerk, Neligh
Barbara Shannon	NRCS Clerk, Ainsworth
Mary Zakrzewski	NRCS Clerk, O'Neill

## NeRAIN Volunteers Needed!!!

If you are a weather enthusiast and would like to volunteer for the NeRAIN Program contact the Upper Elkhorn NRD at 402-336-3867! Volunteers will receive a new quality rain gauge, installation and brief training (on internet) to record data. All you need is a computer with internet access and a few minutes each day to report readings from your gauge!



Department of Natural Resources



# Upper Elkhorn NRD Proposed Rules and Regulations for New Irrigated Acres

## Public Hearing is Scheduled for June 25, 2009 at the Knights of Columbus Hall in O'Neill at 7:00 PM

### Upper Elkhorn NRD

#### Rules and Regulations for Implementation of LB483 (Neb. Rev. Stat. § 46-714(12) (2009)).

1. **PURPOSES AND AUTHORITY:** The purposes of these rules and regulations are, in accord with Neb. Rev. Stat. § 46-714(12) and § 46-707(1), to:
  - (a) Allow a limited number of total new ground water irrigated acres annually over the next four years (i.e., from 2009 to 2012);
  - (b) Maintain the status of not fully appropriated based on the most recent basin determination under Neb. Rev. Stat. § 46-713; and
  - (c) Limit the number of new permits so that total new ground water irrigated acres do not exceed 2,500 acres on an annual average from 2009 to 2012.
  - (d) If the goal of 2,500 new irrigated acres is not met in each 2009, 2010, 2011 or 2012 the acres not allocated may be considered the following year for development.
2. **LIMITATION ON EXPANSION OF IRRIGATED ACRES:** Effective immediately, there shall be no expansion of groundwater irrigated acres within the hydrologically connected area of the Lower Platte Basin affecting the Upper Elkhorn NRD. Such activity is strictly prohibited unless the expansion is approved by the Upper Elkhorn NRD in accord with these rules and regulations. Areas of the Upper Elkhorn NRD labeled fully-appropriated by the Nebraska Department of Natural Resources 2008 designation of the Niobrara River Basin are subject to this limitation, but not eligible for expansion under these provisions unless that designation is reversed.
3. **ENFORCEMENT:** The NRD will enforce this limitation consistent with its authority under the law and its rules and regulations, including, but not limited to, Neb. Rev. Stat. § 707(1)(g). In addition, a violation of these provisions may be grounds for denying an application to expand groundwater irrigated acres under the ranking criteria set forth below.
4. **WELL PERMITS:** If a request for expansion of irrigated acres requires installation of a new ground water well, the respective well permit application will not be deemed complete until authorization is granted by the Upper Elkhorn NRD for the expansion of those irrigated acres.
5. **PROCESS FOR APPLICATIONS TO EXPAND IRRIGATED ACRES:** The process that allows expansion of groundwater irrigated acres shall be as follows:
  - (a) The application period to apply for the new groundwater irrigated acres shall be the month of October for 2009 and the month of January for years 2010-2012. Any application received outside of an application period will be returned to the applicant as incomplete.
  - (b) The applicants will be notified on status of their application within 60 days following the application period.
    - (i) Applications not approved will be held over for the next application period unless withdrawn by the applicant. If the application is withdrawn and then re-submitted appropriate fee's will be required.
    - (ii) A request to re-evaluate an application being held over may be made during the next application period if there is a change in the application information. No additional fee is required.
- (c) The application shall be made on forms provided by the district. The Board instructs staff to prepare the relevant forms and submit them to the Board for approval.
  - (i) The application shall include the most recent aerial photo delineating the new acres being applied and, as applicable, the proposed location of the new well or location of existing well to be used.
  - (ii) If the acres will be irrigated with an existing well, the application shall include the well registration number. If the acres will be irrigated with a new well, the application shall include the approximate legal description for the new well, well logs and test pump data (if any).
  - (iii) The application shall be accompanied with a one-time non-refundable filing fee:
    - (1) Fee for 25 acres or less is \$75.00;
    - (2) Application Fee for over 25 acres is \$3.00 per acre;
    - (3) Adding acres or corrections to an application will be charged at above rates.
  - (iv) The application shall be signed by the current landowner or power of attorney.
  - (v) Application is non-transferable
  - (vi) Application does not include the Permit Fee to Construct a Water Well.
  - (vii) Application may be declined if it is incomplete or information is inaccurate.
6. **RANKING CRITERIA:** The Upper Elkhorn NRD will review the application for expanding groundwater irrigated acres based on discretionary factors, including but not limited to, whether the application would promote the health and welfare of the NRD by contributing to the conservation, protection, development, and sound management of natural resources within this District. The Board will establish ranking criteria to assist with evaluating applications. Factors to be considered in the ranking criteria include but are not limited to: (i) irrigation type; (ii) groundwater quality and quantity levels; (iii) irrigation concentration; (iv) soil classification (i.e., Highly Erodible Lands, or HEL); (v) stream depletion factors; (vi) compliance with Nitrogen Certification Guidelines of the Upper Elkhorn NRD's Ground Water Management Plan; (vii) compliance with Upper Elkhorn NRD rules and regulations, including compliance with the limitation on expansion of groundwater irrigated acres under these provisions; and (viii) such other factors that assist in determining whether the application would promote the health and welfare of the NRD.
7. **FLOWMETERS REQUIRED:** Installation of a flowmeter approved by the Upper Elkhorn NRD staff is required as a condition for any application for expansion of groundwater irrigated acres.
8. **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 application or matters pertaining to other lands, whether or not they are similarly situated.
9. **CANCELLATION OF APPROVED EXPANSION:** The Upper Elkhorn NRD may cancel or void an approved expansion application at any time for violation of the NRD's rules and regulations.