

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.