

## RULE 15

### Variances

The Board of Directors may grant variances from the strict application of these rules and regulations upon good cause shown –

- a. An application for a variance shall be made on forms provided by the District and the application will be acted upon by the Variance Committee. The applicant or his or her representative shall be present at the Variance Committee meeting. With prior notification to the District, written testimony may be provided if the applicant cannot be present.
- b. Variance Committee: The 5-member Variance Committee meets with all individuals who request a variance from the rules and regulations of the Board. The Committee reports to the Board at the regular Board meeting. The variance requests are reviewed by the Board and placed on the agenda for the next regular Board meeting for decision.
  1. The Manager will distribute all information concerning the variance to the Variance Committee, all other Board members, and person(s) requesting the variance.
  2. The Variance Committee will meet with person(s) requesting a variance at the time set by the Manager to hear the variance request.
  3. The Variance Committee will report to the Board at a regular or special Board meeting the information received for the variance requested.
  4. The variance request will be voted on at the next regular Board meeting. At that time, the Variance Committee will make a recommendation to the Board concerning the variance request.
- c. The Board, at its discretion, may designate conditions under which specific requests for a variance may be approved by methods other than the Variance Committee process. A variance granted under these conditions shall be referred to as an “expedited variance.”

An application for an expedited variance shall be made on forms provided by the District. An expedited variance may be granted by the Lower Loup Natural Resources District General Manager, or his designated representative, for the purpose of approving an expedited variance for:

- a. Alternative methods used for public education and/or demonstration projects.
- b. A water well that is used to supplement an irrigation well that irrigates land already irrigated with groundwater, provided that the irrigated acres do not exceed the acres currently irrigated and that the landowner provide the following:

1. Written agreement from the landowner that the acres irrigated will not exceed the acres irrigated before the temporary closure.
- c. New wells that irrigate land currently irrigated with surface water on the condition that the landowner provides the following:
1. Written agreement from the landowner that the well will only be used when the surface water supply has been exhausted and is no longer available to the operator at the normal rotation or scheduled time.
  2. Written agreement that the landowner will maintain the surface water right.
  3. Written agreement that the irrigated acres will not exceed the acres currently irrigated.
- d. Land previously irrigated but currently enrolled in a federal, state, or local government conservation program may receive an expedited variance from the raised seal original record of irrigated acres from the County Assessor as long as:
1. Acres were irrigated just before being enrolled in a program.
  2. Acres are not assessed as irrigated within that county.
  3. Acres are certified through the Irrigated Acres Certification process following the conservation program contract termination.

## **RULE 16**

### **Irrigated Acres Certification**

Certification of irrigated acres is required by January 1, 2008, by each landowner or his or her representative that owns irrigated land within the Lower Loup NRD (Appendix A). The certification records provided by the landowner will include: completed District certification form, raised seal original record of irrigated acres from County Assessor, and FSA aerial photo delineating irrigated acres. The County Assessor's records will be used as the final base for irrigated acre certification. In cases that the acres being certified are not accepted by the General Manager or his or her designated representative, the landowner or his or her representative may request to present his or her information to the Variance Committee for its recommendation to the Board.

All or any of the following sources of information will be used in the variance process to resolve a dispute:

- U.S.D.A. Farm Service Agency records
- Aerial photographs
- Crop insurance records
- Personal documentation
- Surface Water Rights Maps
- Other requested information

The Board may take action to approve, modify and approve, or reject the certification provided by the landowner and his or her representative.

Acres to be certified must actually be capable of being supplied with groundwater or surface water through irrigation works, mechanisms or facilities existing at the time of certification before being approved.

No acres shall be certified for an illegal water well, as that term is defined in Rule 2 of the Lower Loup NRD Rules and Regulations.

The information on the forms must be corrected and kept current by the landowner or his or her representative.

## **RULE 17**

### **Temporary Suspension of the Drilling of New Wells**

Effective     (date)    , there is a temporary closure in the issuance of permits to construct new wells within the Lower Loup NRD (Appendix A).

Wells not subject to these rules are:

- a. Test holes.
- b. Dewatering wells with an intended use of 90 days or less.
- c. Water wells constructed to pump 50 gpm or less, provided that if two or more water wells have individual pumping capacities of 50 gpm or less but a combined capacity of more than 50 gpm, and if those wells are to be clustered or joined for a single purpose or if the water there from is to be commingled or combined for a single purpose, other than a water source used to water range livestock, those wells shall be considered as one well and shall be subject to Rule 17.
- d. Water wells to be used as Replacement Wells.
- e. Wells with permits approved before     (date)     may be constructed if the construction of the well is completed before the expiration date of the permit.
- f. The construction of a well for monitoring groundwater or an observation well for obtaining water levels or hydrologic information. A monitoring/observation well shall not have a permanent pump installed.
- g. The construction of wells for the purpose of groundwater contamination treatment. The application shall include a copy of an approved site plan.

This temporary suspension shall remain in effect until January 1, 2008, unless rescinded by the Board of Directors.

This temporary suspension can be extended by amendment of the rules and regulations beyond January 1, 2008, by formal public hearing.

## **New Definitions**

Good Cause Shown – Shall mean a reasonable justification for granting a variance that would otherwise be prohibited by law, statute, rule or regulation which the Board reasonably and in good faith believes will provide an economic, environmental, social or public health and safety benefit that is equal to or greater than the benefit resulting from the prohibition from which a variance is sought.

Replacement Well – Defined as a water well which (a) replaces a previously abandoned water well within three years of the last operation of the abandoned water well or replaces a water well that will not be used after construction of a new water well and the original water well will be decommissioned within one year of construction of the new water well; and (b) if for irrigation, is constructed to provide water to the same tract of land served by the water well being replaced.

Illegal Water Well – Shall mean (a) any water well operated or constructed without or in violation of a permit required by the Nebraska Ground Water Management and Protection Act, (b) any water well not in compliance with rules and regulations adopted and promulgated pursuant to the act, (c) any water well not properly registered in accordance with sections 46-602 to 46-604, or (d) any water well not in compliance with any other applicable laws of the State of Nebraska or with rules and regulations adopted and promulgated pursuant to such laws.