

Agenda Item: 9.



Papio-Missouri River
Natural Resources District
Public Hearing
On the Integrated Management Plan Groundwater
Rules and Regulations

October 9, 2014
(as a part of the Board of Directors Meeting)

AGENDA

1. Hearing Called to Order – Chairperson Klug
2. Appointment of Hearing Officer --- John Winkler
3. Evidence of Proof of Publication of Hearing Notice --- John Winkler
4. Acceptance and Identification of Exhibits --- John Winkler
5. Explanation of the Purpose of the Hearing --- Steve Grasz
6. Discussion of the Integrated Management Plan Groundwater Control and Groundwater Rules and Regulations – Brian Henkel
7. Testimony from the Department of Natural Resources --- Jesse Bradley
8. Receive Testimony and Statements
9. Hearing Adjournment

**Papio-Missouri River
Natural Resources District
Public Hearing
On the Integrated Management Plan Groundwater
Rules and Regulations**

**October 9, 2014
(As a part of the Board of Directors Meeting)**

List of Exhibits

- | | |
|------------------|--|
| Exhibit 1 | Agenda |
| Exhibit 2 | Notice of Public Hearing <ul style="list-style-type: none">• Omaha World-Herald, September 19, 2014• Omaha World-Herald, September 24, 2014• Omaha World-Herald, October 1, 2014• Omaha World-Herald, October 2, 2014 |
| Exhibit 3 | Resolution – Limit on the Expansion of Groundwater Irrigated Acres and the Construction of New Irrigation Wells |
| Exhibit 4 | Resolution – Rules and Regulations for the Granting of Variances from the Limit on the Expansion of Groundwater Irrigated Acres and Construction of New Irrigation Wells and List of Hydrologically Connected Area |
| Exhibit 5 | Hydrologically Connected Sections Overview Maps |
| Exhibit 6 | Letter of Testimony submitted by State of Nebraska Department of Natural Resources, Brian Dunnigan, P.E., Director |
| Exhibit 7 | |
| Exhibit 8 | |

Place Ad Here

NOTICE OF PUBLIC HEARING RELATING TO THE PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT INTEGRATED MANAGEMENT PLAN GROUNDWATER CONTROL

The Papio-Missouri River Natural Resources District (District) hereby provides notice that the District shall hold a public hearing on October 9, 2014 at 7:00 p.m., at the District office, 8901 S. 154th Street, Omaha, NE 68138. The purpose of the hearing is to take testimony on the proposed groundwater control in the District's Integrated Management Plan (IMP). The geographic area for the proposed control encompasses a portion of Sarpy, Douglas, and Washington Counties. The proposed groundwater control for the IMP Area of the District is set forth in Section 4.0 of the IMP and consists of the following action: establish a limit on the expansion of groundwater-irrigated acres.

Any interested persons may appear at the hearing and present written or oral testimony concerning the proposed control. Individuals with disabilities may request auxiliary aids and service necessary for participation by contacting the District by October 4, 2014 by 4:30 p.m. Testimony or other evidence relevant to the purposes of the hearing may also be submitted in writing to the Papio-Missouri River Natural Resources District, 8901 S. 154th Street, Omaha, NE 68138, or by electronic mail at phenkel@papiord.org. Written testimony will be accepted until 4:30 p.m. on November 1, 2014.

For further information regarding the IMP and proposed groundwater control or for the full text of the IMP and proposed control, refer to the District website at www.papiord.org or contact the District at the addresses listed above or at (402) 444-6222.

Following the public hearing on the proposed control and testimony submittal period, the District will make a decision within 60 days on whether to adopt and implement the groundwater control as proposed.



Proof of publication

AFFIDAVIT

State of Nebraska, County of Douglas, ss:

Kiley Petersen, being duly sworn, deposes and says that he/she is an employee of The Omaha World-Herald, a legal daily newspaper printed and published in the county of Douglas and State of Nebraska, and of general circulation in the Counties of Douglas, and Sarpy and State of Nebraska, and that the attached printed notice was published three times in the said newspaper the first insertion having been on September 19, 2014 and thereafter on September 24, and October 1, 2014, and that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge. The Omaha World-Herald has an average circulation of 132,416 Daily and 165,454 Sunday, in 2014.

(Signed)

Title: Account Executive

Subscribed in my presence and sworn to before me this 1 day of October, 2014.



Notary Public

Printer's Fee \$ _____
Affidavit _____
Paid By _____



Place Ad Here

**Notice of Public Meetings
Papio-Missouri River
Natural Resources
District**

Notice is hereby given of the following District meeting which will be held at the Natural Resources Center, 8901 S. 154th Street, Omaha, NE unless otherwise indicated:

1. Ad Hoc Consultant Selection Subcommittee, Oct. 7, 2014, at 6:30 p.m.
2. Programs, Projects & Operations Subcommittee, Oct. 7, 2014, at 6:35 p.m. or immediately following Ad Hoc
3. Finance, Expenditure & Legal Subcommittee, Oct. 7, 2014, at 7:00 p.m. or immediately following PPO
4. Board of Directors, Oct. 9, 2014, at 7:00 p.m. (Public Hearing on Groundwater Management Plan Rules & Regulations will be held as part of the meeting)

An agenda for such meeting(s) shall be kept continually current and shall be readily available for public inspection at the District's principal office during normal business hours.

Proof of publication

AFFIDAVIT

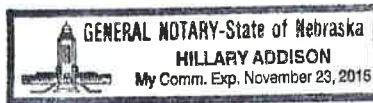
State of Nebraska, County of Douglas, ss:


Kiley Petersen, being duly sworn, deposes and says that she is an employee of The Omaha World-Herald, a legal daily newspaper printed and published in the county of Douglas and State of Nebraska, and of general circulation in the Counties of Douglas, and Sarpy and State of Nebraska, and that the attached printed notice was published in the said newspaper on the 2 day of October, 2014, and that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge. The Omaha World-Herald has an average circulation of 132,416 Daily and 165,454 Sunday, in 2014.

(Signed) 

Title: Account Executive

Subscribed in my presence and sworn to before me this 2 day of October, 2014.




Notary Public

Printer's Fee \$ _____
Affidavit _____
Paid By _____

RESOLUTION
Limit on the Expansion of Groundwater Irrigated Acres
And the Construction of New Irrigation Wells

1) DEFINITIONS:

“**Historically Irrigated Acres**” shall mean acres irrigated with groundwater during two of the previous ten years, unless the acres were a part of a federal set aside program. Acres that were a part of a federal set aside program that were irrigated using groundwater prior to entering into the federal set aside program shall be considered Historically Irrigated Acres.

“**Annual Evaluation**” shall mean the “Annual Evaluation of Availability of Hydrologically Connected Water Supplies”, published by the Nebraska Department of Natural Resources.

“**Irrigation Well**” shall mean any well constructed for the purpose of irrigating cropland.

“**Hydrologically Connected Area**” shall mean the area within the Papio-Missouri Natural Resource District determined to be hydrologically connected to surface water as listed in the Annual Evaluation.

“**Replacement Well**” shall mean an Irrigation Well constructed for the purposes of irrigating Historically Irrigated Acres and for replacing an Irrigation Well that has been properly de-commissioned in the State of Nebraska.

2) PURPOSE AND AUTHORITY:

The purpose of these rules and regulations is to limit the expansion of irrigated acres to approximately 2,500 per year. These rules and regulations are authorized by Nebraska Revised Statutes sections 46-718 and 46-739.

3) IMMEDIATE LIMIT ON THE EXPANSION OF GROUNDWATER IRRIGATED ACRES:

Effective immediately, there shall be no additional groundwater irrigated acres, beyond those considered to be historically irrigated, within the Hydrologically Connected Area without a variance being granted by the District.

4) IMMEDIATE LIMIT ON THE CONSTRUCTION OF NEW IRRIGATION WELLS:

Effective immediately, there shall be no additional irrigation wells, not considered as Replacement Wells, constructed in the Hydrologically Connected Area without a variance being granted by the District for the expansion of groundwater irrigated acres.

RESOLUTION
Rules and Regulations for the Granting of Variances from the
Limit on the Expansion of Groundwater Irrigated Acres
And Construction of New Irrigation Wells

SECTION 1 DEFINITIONS:

“**Annual Evaluation**” shall mean the “Annual Evaluation of Availability of Hydrologically Connected Water Supplies,” published by the Nebraska Department of Natural Resources (Department).

“**Certified Acres**” shall mean those acres recognized by the Pappio-Missouri River Natural Resources District (District) as being Historically Irrigated.

“**Fully Appropriated**” shall mean a river basin, designated by the Department, where the surface and groundwater supplies are just sufficient to meet the demand on those supplies. Fully Appropriated is determined by the Department in its Annual Evaluation.

“**Historically Irrigated Acres**” shall mean acres irrigated, with groundwater, two years out of the previous ten years, unless the acres were a part of a federal set aside program. Acres that were a part of a federal set aside program that were irrigated using groundwater, prior to entering into the federal set aside program, shall be considered Historically Irrigated Acres.

“**Hydrologically Connected Area**” (HCA) shall mean the area within the Pappio-Missouri Natural Resource District where groundwater is determined to be hydrologically connected to surface water as listed in the Annual Evaluation. A listing of the sections within the Hydrologically Connected Area is included in Section 2, *infra*.

“**Irrigation Well**” shall mean any well constructed for the purpose of irrigating cropland.

“**Planning Period**” shall mean the four year period starting on January 1, 2009 and ending December 31, 2012.

“**Replacement Well**” shall mean an Irrigation Well constructed for the purposes of irrigating Historically Irrigated Acres and for replacing an Irrigation Well that has been properly de-commissioned with the State of Nebraska.

SECTION 2 HYDROLOGICALLY CONNECTED AREA

The Hydrologically Connected Area (HCA) is comprised of those sections that the Department determined to have hydrologically connected surface water and groundwater in the Annual Evaluation for 2009. The HCA is designated as the sections or portions of sections, as listed below, within the Pappio-Missouri River Natural Resources District:

Dodge County: Township 17 North, Range 08 East, Sections 25, 35, 36; Township 17 North, Range 09 East, Section 31

Douglas County: Township 14 North, Range 09 East, Section 01; Township 14 North, Range 10 East, Sections 03, 04, 05, 06, 07, 08, 09; Township 15

North, Range 09 East, Sections 01, 02, 03, 11, 12, 13, 24, 25, 36; Township 15 North, Range 10 East, Sections 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34; Township 16 North, Range 08 East, Section 01; Township 16 North, Range 09 East, Sections 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36; Township 16 North, Range 10 East, Sections 04, 05, 06, 07, 08, 09, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34

Sarpy County: Township 12 North, Range 10 East, Sections 03, 04, 05, 09, 10, 11, 12, 13; Township 12 North, Range 11 East, Sections 01, 02, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21; Township 12 North, Range 12 East, Sections 06; Township 13 North, Range 10 East, Sections 03, 04, 05, 08, 09, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 32, 33; Township 13 North, Range 11 East, Sections 25, 36; Township 13 North, Range 12 East, Sections 25, 26, 27, 28, 29, 30, 31, 32, 33; Township 13 North, Range 13 East, Sections 03, 10, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; Township 13 North, Range 14 East, Sections 30, 31; Township 14 North, Range 10 East, Sections 16, 17, 20, 21, 28, 29, 32, 33;

Washington County: Township 17 North, Range 09 East, Sections 02, 03, 11, 12, 13; Township 17 North, Range 10 East, Sections 18, 20, 29, 32, 33; Township 18 North, Range 09 East, 05, 08, 17, 20, 28, 29, 33, 34.

SECTION 3 AUTHORITY AND PURPOSE:

These rules and regulations are authorized by Nebraska Revised Statutes sections 46-718 and 46-739.

The purpose of these rules and regulations is to limit the expansion of irrigated acres that utilize groundwater sources within the Hydrologically Connected Area to approximately 2,500 additional acres per year.

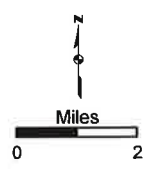
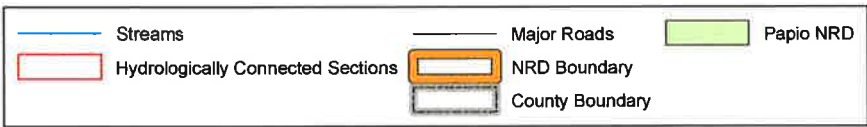
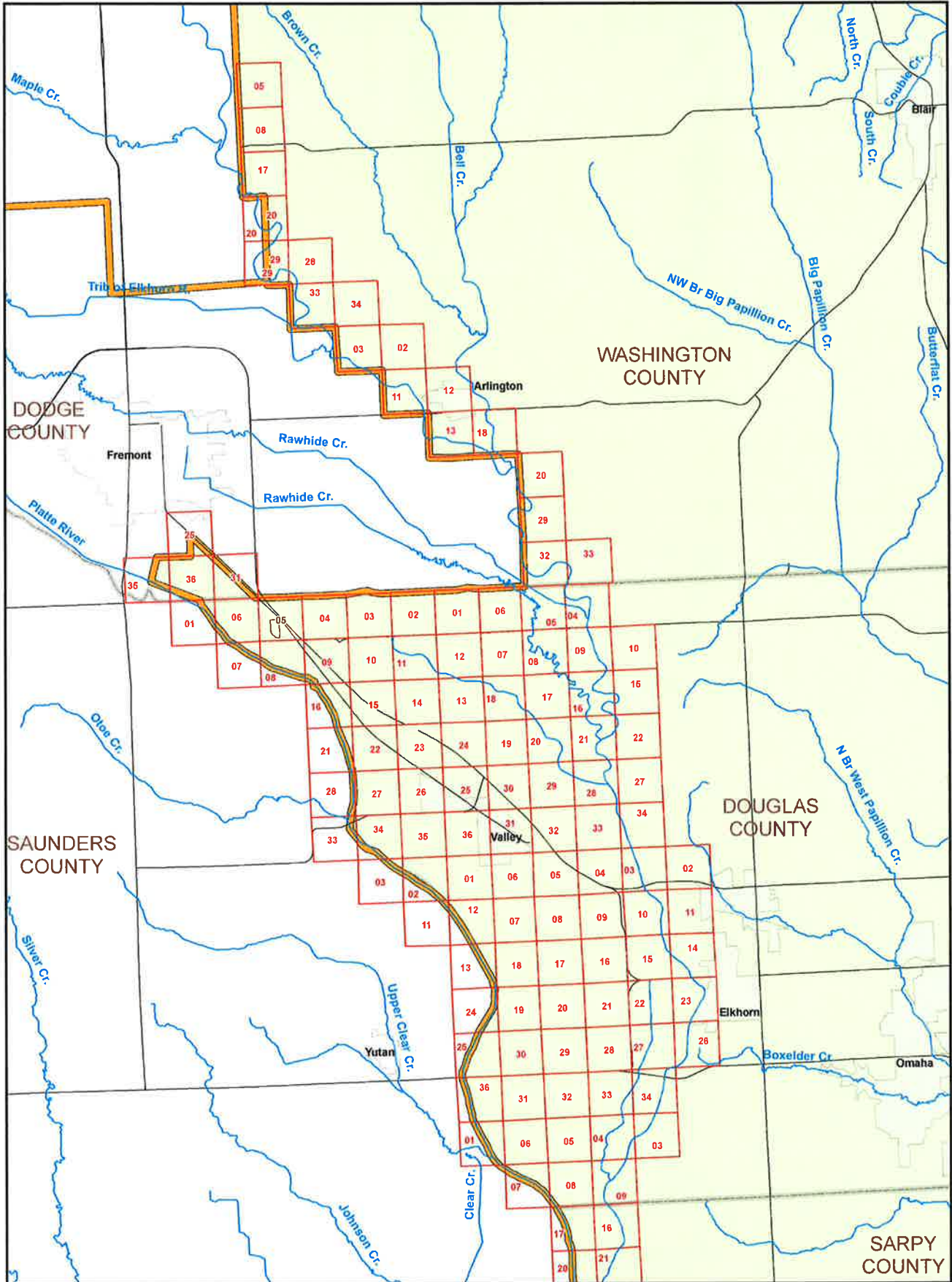
SECTION 4 GROUNDWATER IRRIGATION ALLOWANCES:

- Rule 1 Expansion of groundwater irrigation shall be done through application to the District for a variance to the imposed limit on the expansion of irrigated acres and the construction of new irrigation wells. District management shall determine the variances to be granted so as to limit expansion of irrigated acres to approximately 2,500 additional acres per year, according to time of filing.
- Rule 4 Certification shall be completed upon submittal to the District, by the applicant, of a state well registration number for new well construction or by submittal, by the applicant, of appropriate documentation of modification to the Irrigation Well. District management shall make the determination of Certified Acres and notify the applicant.
- Rule 6 A variance shall be voided if the completion of the new Irrigation Well or other required piping and appurtenances to the existing Irrigation Well are not completed within one year of the granting of the variance.

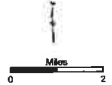
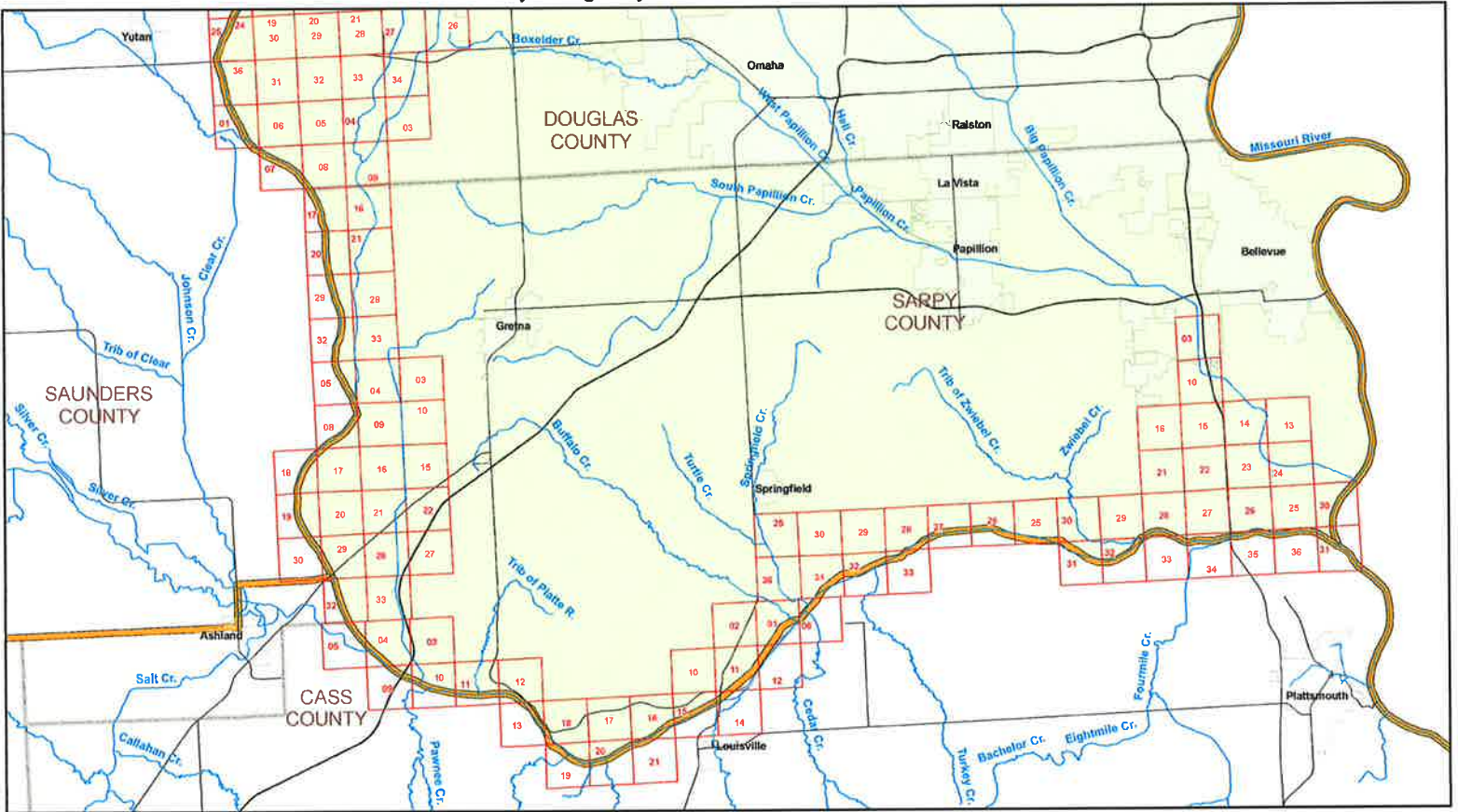
SECTION 5 ENFORCEMENT AND APPEAL:

Rule 1 The District shall enforce these rules and regulations adopted herein pursuant to and in accordance with the enforcement procedures provided in the Nebraska Groundwater Management and Protection Act. Any landowner, not satisfied with a determination by the District, may request to address the District Board of Directors.

Hydrologically Connected Sections (North)



Hydrologically Connected Sections (South)





Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES
Brian P. Dunnigan, P.E.
Director

October 2, 2014

IN REPLY TO:

Fred Conley, Board Chairperson
Papio-Missouri River NRD
8901 S. 154th St.
Omaha, NE 68138

**SUBJECT: Department Testimony for the Papio-Missouri River Natural Resources District
Groundwater Rules and Regulations**

Dear Mr. Conley:

This letter is intended as the official testimony of the Nebraska Department of Natural Resources (Department) for inclusion into the record of the Papio-Missouri River Natural Resources District's (District) October 9, 2014, hearing on the proposed groundwater controls. This testimony is offered in accordance with *Neb. Rev. Stat. § 46-743(7)* (R.R.S. 2004).

The Department reviewed the District's rule and limit modifications. The Department understands the District's need to develop and modify their rules and limits for efficient management and recognizes the authorities of the District to make the necessary interpretations of the Ground Water Management and Protection Act.

The Department appreciates the opportunity to review the District's proposed modifications to its rules and limits and looks forward to continuing to work with the District in the future.

Sincerely,

Brian P. Dunnigan, P.E.
Director