

Memorandum

To: Programs, Projects and Operations Subcommittee

Re: Immediate and Temporary Stay on Well Construction and Expansion of Irrigated Acres

Date: 6/5/2009

From: Brian L. Henkel, Groundwater Management Engineer

Portions of the Papio NRD were preliminarily declared fully appropriated under the original "2009 Annual Evaluation of Availability of Hydrologically Connected Water Supplies" (Annual Evaluation) published by the Nebraska Department of Natural Resources (Department) on December 16th, 2008. The final determination, released by the Department on April 8th, 2009, reversed the preliminary determination of fully appropriated. Recent legislation (LB 483) requires the District to adopt rules and regulations to limit the expansion of groundwater irrigated acres. The limit must ensure that the expansion of groundwater irrigation will not cause the Lower Platte River Basin to become fully appropriated during the next four years. The Department is also limited, by the recent legislation, to allow no more than 834 acres/NRD/year of expansion of surface water irrigated acres over the four year period.

The Department will review all groundwater rules and regulations, in conjunction with the surface water limitations, to ensure that a fully appropriated status will not be triggered. If the Department review shows that the rules and regulations keep the basin from being fully appropriated over the next four years, they will be approved.

Should the District fail to impose rules and regulations to limit the expansion of groundwater irrigated acres, a maximum allowable annual expansion will be set for the District. The statute would limit the allowable expansion of groundwater irrigated acres to the lesser of 20% of the historically irrigated acres or 2,500 acres (2,500 acres for the District). Under the statutorily imposed limitation, the District would still be responsible for limiting the expansion of groundwater irrigated acres, but would lose the ability to adjust the allowable acres in the future.

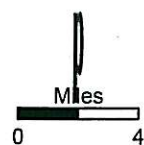
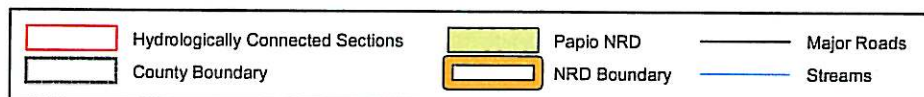
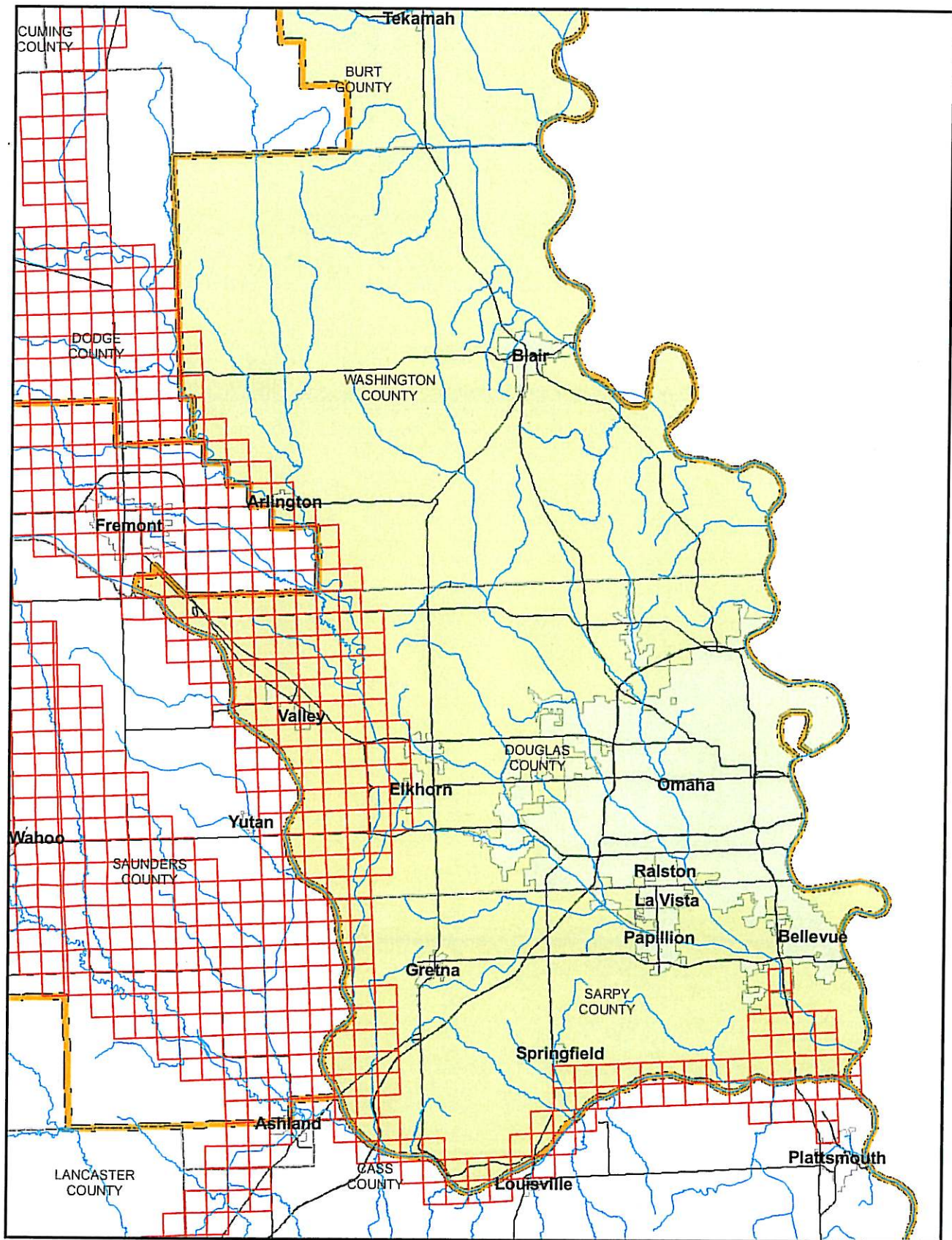
The process available to the district to comply with the statute is through a moratorium and variance process as described in Nebraska Revised Statute 46-707(2). The District can impose an immediate and temporary (180 day) stay on the expansion of groundwater irrigated acres and the construction of new water wells. The temporary stay can be made permanent, by the District, after a hearing process as described in 46-743. The variance process would be adopted at the time the stay was made permanent.

Staff recommends that the District impose an immediate and temporary stay on the expansion of groundwater irrigated acres and the construction of new irrigation wells in the hydrologically connected areas, as defined in the 2009 Annual Evaluation. Staff also recommends that the District hold a public hearing, in accordance with 46-743, to take testimony regarding the imposed stays. A resolution including the language of the stays is included with this memorandum. The District will need to adopt an additional

resolution, tentatively at the July Board meeting, to establish a variance process for the limited expansion of groundwater irrigated acres. A legal description of the sections considered to be hydrologically connected is included as Attachment 1.

Staff recommends that the subcommittee recommend to the Board the resolution, presented to the meeting, providing for an immediate and temporary stay on the construction of new irrigation wells and the expansion of groundwater irrigated acres, be tentatively adopted; and, that a public hearing on the proposed stays be scheduled for the July Board meeting.

Hydrologically Connected Sections



**RESOLUTION - Stay 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, 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.

"Annual Evaluation" shall mean the "2009 Annual Evaluation of Availability of Hydrologically Connected Water Supplies", published April 8, 2009 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. A listing of the sections considered to be hydrologically connected is included in Attachment 1.

"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.

2) PURPOSE AND AUTHORITY:

The purpose and authority of these rules and regulations are in accord with Nebraska Revised Statute 46-707(2) and 46-714(12) to:

- a) Limit the expansion of irrigated acres to approximately 2,500 acres per year for the calendar years 2009, 2010, 2011 and 2012 with a maximum not to exceed 10,000 acres in the same four year period.
- b) Maintain the status of not fully appropriated based on the most recent Annual Evaluation.

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

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

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

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

Attachment 1

Hydrologically Connected Sections

County	Township	Range	Section
Dodge	17	08	25
Dodge	17	08	35
Dodge	17	08	36
Dodge	17	09	31
Douglas	14	09	01
Douglas	14	10	03
Douglas	14	10	04
Douglas	14	10	05
Douglas	14	10	06
Douglas	14	10	07
Douglas	14	10	08
Douglas	14	10	09
Douglas	15	09	01
Douglas	15	09	02
Douglas	15	09	03
Douglas	15	09	11
Douglas	15	09	12
Douglas	15	09	13
Douglas	15	09	24
Douglas	15	09	25
Douglas	15	09	36
Douglas	15	10	02
Douglas	15	10	03
Douglas	15	10	04
Douglas	15	10	05
Douglas	15	10	06

County	Township	Range	Section
Douglas	15	10	07
Douglas	15	10	08
Douglas	15	10	09
Douglas	15	10	10
Douglas	15	10	11
Douglas	15	10	14
Douglas	15	10	15
Douglas	15	10	16
Douglas	15	10	17
Douglas	15	10	18
Douglas	15	10	19
Douglas	15	10	20
Douglas	15	10	21
Douglas	15	10	22
Douglas	15	10	23
Douglas	15	10	26
Douglas	15	10	27
Douglas	15	10	28
Douglas	15	10	29
Douglas	15	10	30
Douglas	15	10	31
Douglas	15	10	32
Douglas	15	10	33
Douglas	15	10	34
Douglas	16	08	01
Douglas	16	09	01
Douglas	16	09	02
Douglas	16	09	03
Douglas	16	09	04

County	Township	Range	Section
Douglas	16	09	05
Douglas	16	09	06
Douglas	16	09	07
Douglas	16	09	08
Douglas	16	09	09
Douglas	16	09	10
Douglas	16	09	11
Douglas	16	09	12
Douglas	16	09	13
Douglas	16	09	14
Douglas	16	09	15
Douglas	16	09	16
Douglas	16	09	21
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Douglas	16	09	28
Douglas	16	09	33
Douglas	16	09	34
Douglas	16	09	35
Douglas	16	09	36
Douglas	16	10	04
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Douglas	16	10	07
Douglas	16	10	08

County	Township	Range	Section
Douglas	16	10	09
Douglas	16	10	10
Douglas	16	10	15
Douglas	16	10	16
Douglas	16	10	17
Douglas	16	10	18
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Douglas	16	10	22
Douglas	16	10	27
Douglas	16	10	28
Douglas	16	10	29
Douglas	16	10	30
Douglas	16	10	31
Douglas	16	10	32
Douglas	16	10	33
Douglas	16	10	34
Sarpy	12	10	03
Sarpy	12	10	04
Sarpy	12	10	05
Sarpy	12	10	09
Sarpy	12	10	10
Sarpy	12	10	11
Sarpy	12	10	12
Sarpy	12	10	13
Sarpy	12	11	01
Sarpy	12	11	02
Sarpy	12	11	10

County	Township	Range	Section
Sarpy	12	11	11
Sarpy	12	11	12
Sarpy	12	11	14
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Sarpy	12	11	16
Sarpy	12	11	17
Sarpy	12	11	18
Sarpy	12	11	19
Sarpy	12	11	20
Sarpy	12	11	21
Sarpy	12	12	06
Sarpy	13	10	03
Sarpy	13	10	04
Sarpy	13	10	05
Sarpy	13	10	08
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County	Township	Range	Section
Sarpy	13	10	32
Sarpy	13	10	33
Sarpy	13	11	25
Sarpy	13	11	36
Sarpy	13	12	25
Sarpy	13	12	26
Sarpy	13	12	27
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Sarpy	13	13	31

County	Township	Range	Section
Sarpy	13	13	32
Sarpy	13	13	33
Sarpy	13	13	34
Sarpy	13	13	35
Sarpy	13	13	36
Sarpy	13	14	30
Sarpy	13	14	31
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Sarpy	14	10	17
Sarpy	14	10	20
Sarpy	14	10	21
Sarpy	14	10	28
Sarpy	14	10	29
Sarpy	14	10	32
Sarpy	14	10	33
Washington	17	09	02
Washington	17	09	03
Washington	17	09	11
Washington	17	09	12
Washington	17	09	13
Washington	17	10	18
Washington	17	10	20
Washington	17	10	29
Washington	17	10	32
Washington	17	10	33
Washington	18	09	05
Washington	18	09	08
Washington	18	09	17
Washington	18	09	28

County	Township	Range	Section
Washington	18	09	33
Washington	18	09	34