

LEWIS AND CLARK NATURAL RESOURCES DISTRICT RULES AND REGULATIONS FOR ENFORCEMENT

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1. GENERAL PROVISIONS AND PROCEDURES FOR ENFORCEMENT

1.1 Enforcement – The District shall enforce the Ground Water Management and Protection Act, the Chemigation Act and all its own orders and rules and regulations adopted pursuant to the Act(s) through the issuance of a notice of an alleged violation and intent to issue a cease and desist order, and through the issuance of cease and desist orders in accordance with the provisions of Neb. Rev. Stat. § 46-707 and the procedures hereinafter specified, and by bringing appropriate actions in the District Court of the county in which any violation occurs for the enforcement of such orders.

1.1.1 A notice of an alleged violation and intent to issue a cease and desist order may be issued for reasons including, but not limited to, the following:

1.1.1.1 To enforce any of the provisions of the Act(s) or of orders or permits issued pursuant to the Act(s) or these rules and regulations;

1.1.1.2 To initiate suits to enforce the provisions of the Act(s) or of orders or permits issued pursuant to the Act(s) or these rules and regulations;

1.1.1.3 To restrain the construction or operation of an illegal well as defined in these rules and regulations or the withdrawal or use of water from such illegal well; and

1.1.1.4 To restrain or prevent the operation of an irrigation system in violation of the controls provided for in these rules and regulations.

2. INSPECTIONS

2.1 A compliance inspector may conduct an inspection to confirm compliance with or investigate alleged violations of these rules and regulations.

2.1.1 A compliance inspector may conduct a field inspection upon showing proper identification and after informing the ground water user, landowner, or operator, either in person, by United States Postal Service, by telephone, by certified mail, return receipt requested, or by leaving notice posted at the ground water user, landowner, or operator's last known address of the suspected violation(s) and/or the purpose of the inspection.

2.1.2 A compliance inspector shall be authorized to conduct a prompt chemigation inspection without consent or appropriate warrant in emergency situations when there is neither sufficient time nor opportunity to obtain an inspection warrant.

2.2 Upon completion of the investigation of records or field activities, the compliance inspector shall file a written report of his or her findings in the District office and shall deliver a copy of the report to the ground water user, landowner or operator.

3. SUBMISSION OF INSPECTION REPORT ALLEGING VIOLATION AND ALLEGED VIOLATOR'S ALTERNATIVES

3.1 If the compliance inspector finds that there is reasonable cause to believe that the ground water user, landowner, or operator is in violation of these rules and regulations, then the compliance inspector's report shall be accompanied by a notice to the ground water user, landowner, or operator of the alternative actions available to the alleged violator. Alternative actions include the following:

3.1.1 Agree with and accept as true and correct the compliance inspector's findings that the alleged violation(s) has in fact occurred or is occurring, and consent in writing to a cease and desist order from continuing or allowing the recurrence of such violation, and submit a schedule for corrective action pursuant to Rule 4; or

3.1.2 Reject the findings of the compliance inspector's report and request in writing within three (3) days (excluding Saturdays, Sundays and legal holidays) of the receipt of said report that an evidentiary hearing be scheduled and conducted in accordance with the rules and regulations of the District.

4. SCHEDULE OF COMPLIANCE

4.1 If the alleged violator agrees with the compliance inspector's findings and further agrees to submit a plan to conform with these rules and regulations, the ground water user, landowner, or operator shall submit a plan within ten (10) days (excluding Saturdays, Sundays and legal holidays) following the notification provided by the District.

4.2 Failure to submit a plan within ten (10) days shall result in the issuance of a cease and desist order.

5. VOLUNTARY COMPLIANCE

5.1 Subsequent to the submission of a plan to take corrective action, the District within ten (10) days (excluding Saturdays, Sundays and legal holidays), shall review the investigation report, the plan, and any other related or pertinent documents necessary to evaluate the plan.

5.1.1 The District, at its sole discretion, shall determine whether the actions agreed to by the ground water user, landowner, or operator will, when implemented, bring the ground water user, landowner, or operator into compliance with these rules and regulations.

5.1.1.1 If the District determines that the proposed actions of the ground water user, landowner, or operator are adequate and will prevent future violations within a reasonable time period, such action or plan will be approved, and the District shall notify the ground water user, landowner, or operator of the District's approval and provide a schedule of compliance to complete the plan. As part of any voluntary compliance plan, the District may impose penalties.

5.1.1.2 If the District, at its sole discretion, determines that implementation of the proposed plan, schedule of compliance, or penalty would be inadequate to prevent further violation of the

rules and regulations, then the District shall issue a cease and desist to the ground water user, landowner, or operator.

5.1.1.2.1 An alleged violator shall have five (5) days (excluding Saturdays, Sundays, and legal holidays) from the receipt of the proposed changes from the District to consent to such additions or changes, agree to negotiate, or reject such changes and request a formal hearing.

6. EVIDENTIARY HEARING

6.1 If voluntary measures cannot be agreed upon between the District and the ground water user, landowner, or operator, or if the ground water user, landowner, or operator requests an evidentiary hearing, the Board will schedule an evidentiary hearing no sooner than ten (10) days and not more than forty-five (45) days after receipt of the notice of intent provided pursuant to Rule 3.

6.1.1 Notice of the hearing shall be provided to the ground water user, landowner, or operator and any other necessary person. The District's rules for evidentiary hearings shall govern the conduct of all such hearings. The ground water user, landowner, or operator shall be further notified that if he or she fails to respond to any notice and fails to appear at the scheduled hearing, the Board shall proceed to make a final determination as to the alleged violation of these rules and regulations and shall determine if a formal cease and desist order will be issued and enforced.

6.2 Following the evidentiary hearing or a Board hearing, the Board may take any actions authorized by statute that it deems necessary to cause the ground water user, landowner, or operator to comply with these rules and regulations.

8. BOARD AUTHORIZATION TO INITIATE COURT ACTION

8.1 The Board may initiate appropriate legal actions to enforce any action or orders of the District.

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