

GROUND WATER RUNOFF PROGRAM  
RULES AND REGULATIONS

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Originally Adopted: January 1978

Revised: March 9, 1999

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**SOUTH PLATTE  
NATURAL RESOURCES DISTRICT**

**GROUND WATER RUNOFF PROGRAM RULES AND REGULATIONS**

## **GENERAL**

This program, originally adopted in January 1978, has been prepared by the South Platte Natural Resources District and meets district requirements as outlined in Section 46-656.11 R.R.S. 1943, as amended, of the Nebraska Ground Water Management and Protection Act.

The goal of this program, developed in 1978, is to extend ground water reservoir life to the greatest extent practicable by preventing the inefficient or improper runoff of such ground water. In order to conserve ground water supplies and to prevent the inefficient or improper runoff of such ground water, each person who uses ground water irrigation in the state shall take action or prevent the runoff of water used in such irrigation.

This Program addresses the standards and criteria delineating what constitutes the inefficient or improper runoff of ground water used in irrigation, procedures to prevent, control, and abate such runoff, measures for the construction, modification, extension, or operation of remedial measures to prevent, control or abate runoff of ground water used in irrigation, and the procedures for the enforcement of the rules and regulations of this program. It is the intent of the district to resolve alleged violations informally whenever possible thus avoiding formal action.

## **DEFINITIONS**

As used in these rules and regulations of the South Platte Natural Resources District for administration of the Nebraska Ground Water Management Act:

1. "Board or board of directors" shall mean the elected board of directors of the South Platte Natural Resources District.
2. "District" shall mean the South Platte Natural Resources District, NRD, SPRND etc.
3. "District compliance officer" shall mean the general manager or such staff as he or she shall designate to perform the functions assigned thereto by these rules and regulations.
4. "Ground water" shall mean that water which occurs or moves, seeps, filters, or percolates through ground under the surface of the land and shall include ground water which becomes co-mingled with waters from surface sources.

5. “Ground water user” shall mean any person who at any time extracts, withdraws, or confines ground water for any use by themselves or other persons at a rate in excess of 50 gallons per minute.
6. “Illegal water well” (46-1207.01) shall mean (1) Any water well which has not been properly decommissioned and which meets any of the following conditions: (a) The water well is in such a condition that it cannot be placed in active or inactive status; (b) Any necessary operating equipment has been removed and the well has not been placed in inactive status; (c) The water well is in such a state of disrepair that continued use for the purpose for which it was constructed is impractical; (d) The water well was constructed after October 1, 1986 but not constructed by a licensed water well contractor or by an individual on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode; (e) The water well poses a health or safety hazard; or (f) The water well is an illegal water well in accordance with section 46-656.07.
7. “Improper irrigation runoff” shall mean the occurrence of irrigation runoff water after January 1, 1978: (1) within a designated ground water management area, (2) which causes or contributes to the accumulation of water upon or beneath the surface of the lands of any other person(s) to their detriment or (3) which causes or contributes to the deterioration of water quality by depositing sediment and/or associated chemicals in surface waters within the area.
8. “Irrigation runoff water” shall mean ground water used for irrigation purposes which escapes from land owned, leased, or otherwise under the direct supervision and control of a ground water user.
9. “Person” shall mean a natural person, partnership, association, corporation, municipality, irrigation district, and any agency or political subdivision of the state.
10. “Well” shall mean any artificial opening or excavation in the ground through which ground water flows under natural pressure or is artificially withdrawn. A series of wells developed and pumped as a single unit shall be considered as one well.

**1. PREVENTION, CONTROL OR ABATEMENT OF IMPROPER GROUND WATER IRRIGATION RUNOFF**

A ground water user may implement any structural or non-structural procedure, measure, or combination thereof which provides for effective prevention, control or abatement of improper ground water irrigation runoff, including, but not limited to: (1) limitation of water utilized so that structural measures are not necessary to prevent irrigation runoff water and proper operation and management of the irrigation system, including any reuse

of other control measures installed; (2) construction of a runoff collection and/or retention system such as a sump or dugout, together with a reuse pump and/or ditch to return the water to the same or other field for beneficial use; (3) blocking of rows or field borders to contain irrigation water within the property under the direct supervision or control of the ground water user; (4) the execution and performance of an agreement between two or more persons and approved by the district for utilization of any irrigation runoff water; or (5) any other acceptable procedure or measure.

Ground water users whose irrigation runoff water is capable of being captured and utilized by another ground water user or other person in a manner which will prevent waste of such water, deterioration of surface water quality, and accumulation of water upon the land of any other person without their consent may have such water excluded from the definition of improper irrigation runoff water by submitting to the District an agreement providing for such capture and utilization signed by all affected parties, on forms provided by the District. When such agreement is approved by the District it will show the District's concurrence that the ground water user's irrigation runoff water is under adequate control. The agreement may be terminated at any time by either party or by the District whenever it determines that such agreement no longer prevents or controls improper irrigation runoff water. If the District terminates the agreement, written notice shall be provided to both parties. If one of the parties to the agreement causes the termination, written notice shall be provided to the other party and to the District.

## **2. PROCEDURES FOR ENFORCEMENT OF THE NEBRASKA GROUND WATER MANAGEMENT ACT**

The District shall enforce the provisions of the Ground Water Management and Protection Act and all rules and regulations adopted pursuant thereto by the issuance of cease and desist orders in accordance with the procedure hereinafter specified and by bringing appropriate actions in the district court of the county in which any violations occur for enforcement of such orders. Cease and desist orders may be issued for the following reasons: a) Operation of an irrigation system in a manner which allows for improper ground water irrigation runoff. b) Construction or operation of an illegal water well as defined under the definition section of these rules and regulations.

### **1. Complaints**

Any person who owns or leases land within the boundaries of the district, any person who resides within the district, any non-resident person who can show that the actions of any ground water irrigator within the district directly affects him, or the Board on its own motion may file a written complaint against a ground water irrigator alleging a violation of these rules and regulations or that such irrigator is constructing or operating an illegal well. Complaints shall be filed at the office of the district, at Sidney, Nebraska, on complaint forms prepared by the district.

Attachment – B shows the complaint process for alleged ground water runoff violations.

2. Inspections

The land where the alleged violation occurred shall be inspected by a person, authorized by the manager as defined under district compliance officer, to conduct such investigations within five (5) working days following the day of the filing of the complaint exclusive of Saturdays, Sundays, and legal holidays. A copy of the complaint shall be delivered to the alleged violator in person, or at his place of residence, or be sent by certified mail prior to the inspection. The compliance officer, upon proper identification and after informing the person in control of the land of the compliance officer's purpose, is authorized to enter upon the land for the purposes of making an inspection of the alleged violation. The alleged violator shall be given an opportunity to accompany the person conducting the inspection. Upon completion of the inspection, the compliance officer shall file a report of his or her findings in the district office and shall deliver a copy of the report to the alleged violator, the complainant, and to the District's Natural Resources Projects & Programs Committee. The report shall be delivered in person, or at their places of residence, or by certified mail, return receipt requested.

3. Committee and Board Action

If the compliance officer finds in his/her report that there is reasonable cause to believe that a ground water user is at the time of inspection or was at the time complained of, in violation of these rules and regulations or constructing or operating an illegal well, the compliance officer will forward his/her findings to the District's Natural Resources Projects & Programs Committee. The committee will make a determination as to whether a probable violation of these rules and regulations has or has not occurred. Such determination shall be based upon the compliance officer's report. The committee shall report its findings to the board, and to the alleged violator and the complainant with a recommendation of further action as follows:

- a) If the committee determines that no violation of these rules and regulations has occurred, it shall recommend and the board may approve dismissal of the complaint. The alleged violator and the complainant shall be given an opportunity to appear before the entire board before the board acts on the recommendation.
- b) If the committee determines that a probable violation of these rules and regulations has occurred it shall proceed with the notice of violation and options available to the alleged violator.

4. Notice of Violation

If the committee determines that a probable violation of these rules and regulations has occurred, the alleged violator shall be informed of its

findings by letter delivered in person or sent by registered or certified mail, return receipt requested. The letter shall specify the options available to the alleged violator, including:

- a) The alleged violator may agree with and accept as true and correct, the committee's findings that the alleged violation has in fact occurred or is occurring, consent to cease and desist from continuing or allowing the reoccurrence of such violation and submit a conservation plan which shall provide for the discontinuance and/or non-reoccurrence of the violation. If appropriate, such plan shall include the identification and description of all proposed procedures or measures to prevent, control, or abate improper ground water irrigation runoff. The alleged violator shall agree to implement and abide by the terms of such plan and shall have ten days after receipt of the committee's findings to sign the associated conservation agreement.
- b) The alleged violator shall be given an opportunity to contest the committee's findings at a board meeting or if desired by the alleged violator, a formal board hearing. If the alleged violator desires a formal board hearing, he or she must make a written request within ten days after receipt of the committee's findings. Such hearing shall be held no sooner than fifteen days after such request. The District's rules for formal adjudicatory hearings shall govern the conduct of all such hearings. The alleged violator shall be notified in person or by registered or certified mail, return receipt requested, of the date and time of the hearing and shall at the same time be informed that if he or she does not respond to this notice and does not appear at the board meeting for which notice was given, the board shall proceed in his or her absence to make a final determination on the complaint and issue an administrative order if the board concludes that a violation has occurred.

5. Development and Approval of Plan for Compliance

When an alleged violator has been notified and has consented to cease and desist in accordance therewith, a district compliance officer shall review the complaint, the inspector's report, the consent order and any plan for discontinuance and schedule of compliance to determine whether the actions agreed to by the ground water user will, when applied, bring such user into compliance with these rules and regulations, prevent construction or operation of an illegal well, or prevent improper ground water irrigation runoff. The compliance officer will report his/her findings to the committee for their approval/disapproval of the proposed actions. If the committee determines that the proposed actions of the ground water user are adequate and will prevent future non-compliance within a reasonable time period, it shall approve such action or plan and approve the schedule of compliance. If the committee determines that implementation of the

proposed plan and/or schedule of compliance would be inadequate to prevent improper ground water irrigation runoff, it shall indicate the additions or changes it deems necessary. Thereafter, the ground water user shall have five (5) days to consent to such additions or changes in the event of which the committee shall approve the plan and/or schedule of compliance as amended; or, the ground water user may refuse to agree to such additions or changes and request the scheduling of a formal hearing on the issues, which shall be held no less than ten days from the date of request. The original actions under Rule 4, part a, of the procedures for enforcement, and the documents filed in accordance therewith by the ground water user shall not be considered at such hearing unless introduced into the record by that ground water user. The complainant shall be notified of any action taken by the committee approving the plan and/or schedule of compliance submitted by the ground water user within three (3) days following such approval. If no objections to the action taken are received from a complainant, other than the Board itself, or from any members of the Board, if the Board is the complainant, within five (5) days after such notification, the proposed plan and/or schedule of compliance shall be considered as having received final approval. If any such complainant or Board member objects to the approval granted by the committee within five (5) days after notification, a formal hearing before the Board shall be scheduled not less than ten (10) days following notification to all affected parties and shall be conducted in the same manner as if the ground water user had requested the hearing in accordance with Rule 4, part b, of this section.

6. Formal Hearing & Order

At a meeting of the Board prior to which an alleged violator, complainant, or Board member has requested a formal hearing, the Board shall hold such formal hearing. If, following a hearing, the Board determines that such ground water user is violating or has violated these rules and regulations or is constructing or operating an illegal well, it shall adopt and transmit to such ground water user, in person or by certified mail, an order directing such user to immediately cease and desist from all activities determined by the Board to be violations and specifying any actions deemed necessary and appropriate by the Board. At a meeting of the Board prior to which an alleged violator has been notified of the procedures for enforcement and such alleged violator has failed to respond thereunder, or has failed to appear at any properly scheduled formal hearing, the Board shall review the complaint and the compliance officer's report as well as any other pertinent information and issue such order or orders in accordance with these rules and regulations as are deemed appropriate.

7. Ground Water User's Actions Following Issuance of Cease & Desist Order  
Any ground water user against which a cease and desist order has been issued in accordance with these rules and regulations may within seven (7) days following receipt of such order, submit a schedule of compliance/conservation plan. The schedule of compliance/conservation plan requested shall be outlined on forms provided by the district. The schedule of compliance/conservation plan and the conservation agreement shall be approved by the committee if such request is in accordance with any and all guidance given by the Board at the time of issuance of the order.
  
8. Board Authorization to Initiate Court Action  
The Board shall, at the time it takes any action, designate a representative of the Board to initiate appropriate legal actions in the district court of the county in which the violation has occurred ten days after the issuance of any order(s) of the District which orders have not been complied with nor a schedule of compliance approved. In addition, if any schedule of compliance/conservation plan and conservation agreement approved by the Board or the committee is not initiated as agreed to or is not being properly and timely carried out, unless due to circumstances beyond the control of the ground water user, the Board shall authorize immediate initiation of appropriate litigation.

### GROUND WATER RUNOFF COMPLAINT FORM

<b>Instructions</b> Complete items 1 through 5 by printing in ink or typing the appropriate information. Photographs depicting location, nature and extent of Ground Water Runoff damage and aerial photographs may also be submitted with this form.	<b>For District Use Only</b>  Filed in the office of the South Platte NRD at _____ a.m./p.m. on _____. COMPLAINT NO. _____
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**1. Name and Address of the person filing this complaint.**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ .State: \_\_\_\_\_ .Zip Code: \_\_\_\_\_

Telephone Number: (     ) \_\_\_\_\_

**2. Authority to File Complaint. (Check One)**

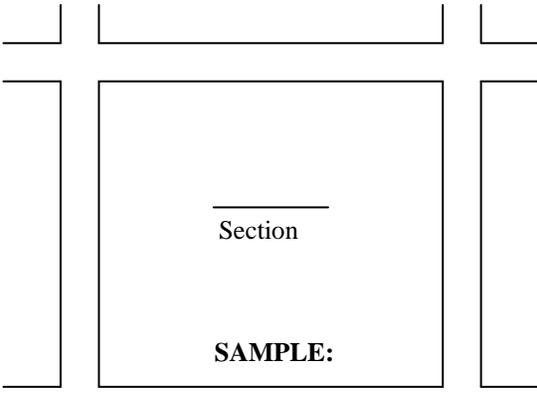
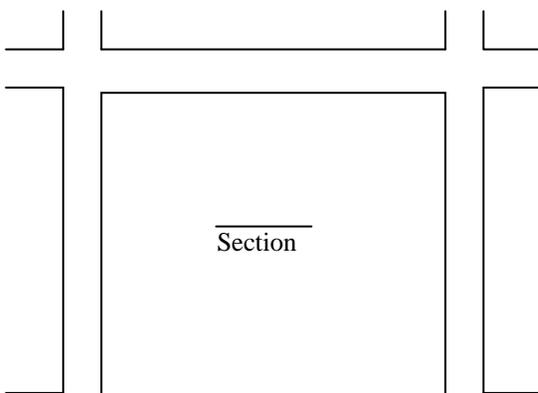
Owner or operator of land being damaged by ground water runoff.

District residents or non-residents being directly affected by ground water runoff.

South Platte Natural Resources District Board of Directors

**3. Runoff Damage.**

**A. Location of the land or facility being damaged by ground water runoff (X) and the land believed to be the source of the ground water runoff (O).**

County: _____ Township _____ Range _____	County : _____ Township _____ Range _____
	
	

**B. Description of the nature and extent of the ground water runoff damage. Include description of physical effects and any economic losses which have occurred.**

**4. Date(s) the ground water runoff damage occurred or was observed.**

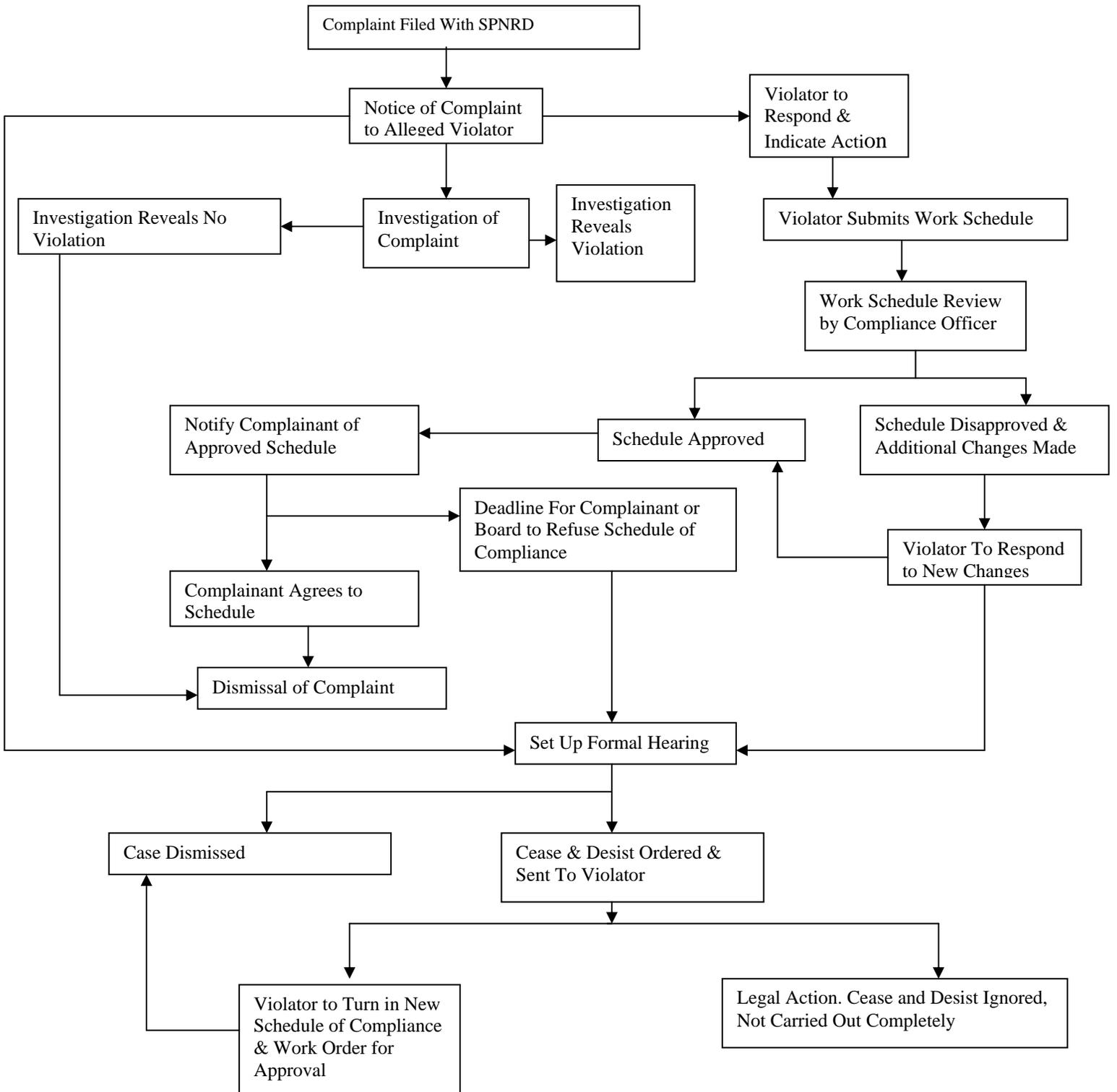
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**5. I certify that the information contained in this complaint is, to the best of my knowledge and belief, true and accurate.**

Date: \_\_\_\_\_, Signature: \_\_\_\_\_.

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Attachment 2



**CONSERVATION PLAN**  
**Schedule for Completion**  
**And**  
**Cooperator's Record of Compliance**

Owners:  
 Operator:  
 Location:  
 Complaint No:

Field	Planned		Completed		Procedures
	Amount	Month/Year	Amount	Month/Year	
Preparers: _____			Date: _____		
			Cooperator: _____		
			Date: _____		