

Tri-Basin Topics

Winter 2008

"Dedicated to Conservation of our Natural Resources"

Volume 22, Issue 1

NRD Certified Irrigated Acres and Acre Transfers

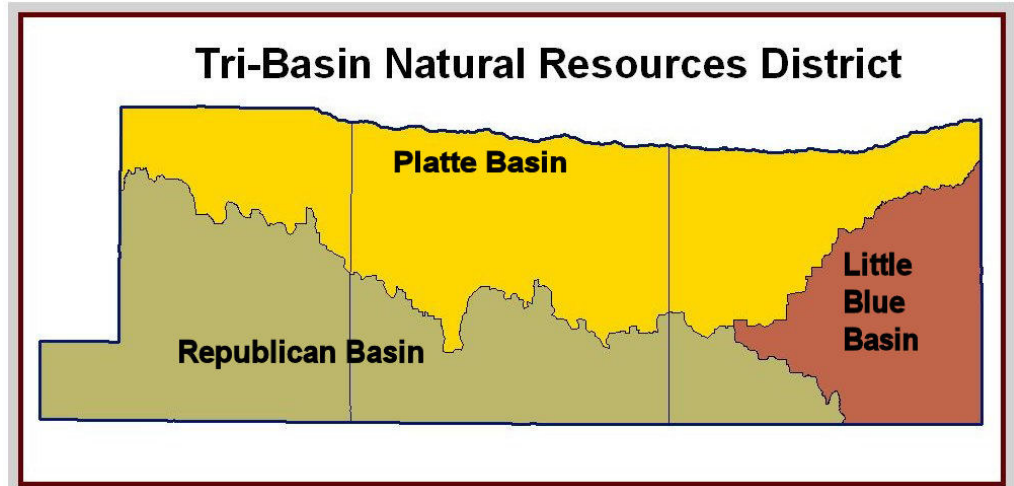
Tri-Basin NRD has enacted rules that restrict development of additional irrigated land in Gosper, Phelps and Kearney counties. As part of this process, we located, counted and certified all irrigated cropland and grassland acres within the district. We certified irrigated acres regardless whether their water source is a well or the Central Public Power and Irrigation District (CNPPID) canal system. We did this because we want Central customers who don't have wells to have the opportunity to drill them if they think it is necessary to supplement limited canal water supplies with groundwater. New well permits are only issued to landowners to irrigate certified irrigated acres.

Because Tri-Basin's authority to regulate water use is generally limited to groundwater, we can't prevent landowners from contracting with CNPPID to use canal water to irrigate land that has not been certified for irrigation by the NRD. That said, CNPPID has a limited number of water rights, so they are only entitled to deliver water to a total of approximately 106,000 acres.

Even though irrigated acres are now limited, their location doesn't have to remain fixed. Landowners can apply for permission to transfer certified irrigated acres from one field to another. The intent of our transfer rules is to allow landowners to make the most efficient use of their limited irrigated acres.

For instance, a landowner may have a field that he wants to convert from gravity to center pivot irrigation. In order to allow the center pivot to make a full circle, he would need to tear out an old farmstead. The farmstead is not certified for irrigation, so he will need to transfer certified acres from another field, perhaps from a pivot corner that is difficult to irrigate. If a landowner doesn't have any certified acres to spare, he can buy or lease certified acres from other landowners, and transfer them to his property.

There are limits on where irrigated acres can be transferred. Irrigated acres can't be transferred across river basin boundaries (e.g., Platte to Republican River basin). Within the Platte Basin, there is also a "one way" restriction on transfers.



The Platte Basin west of Highway 183 is designated by the State of Nebraska as overappropriated, which means that existing water uses must be reduced to bring water uses back into balance with water supplies. East of Highway 183, the Platte Basin is considered fully appropriated, which means that existing water uses are in balance with water supplies. Because of the difference in these designations, landowners are allowed to transfer irrigated acres out of the overappropriated area (west of Hwy. 183) into the fully appropriated area, but not vice versa.

Another limitation on transfers is that certified acres can't be transferred from other NRDs into this district, even within the same river basin. This is a temporary restriction that was imposed by the Tri-Basin NRD Board of Directors. This restriction will remain in place until the NRD integrated management plan is complete. We anticipate that, as part of our integrated management plan, we may develop a regional water banking system, or at least some common set of rules that will enable irrigators make inter-district transfers without affecting the overall water management objectives of the source or destination NRDs.

Certified irrigated land transfers must be approved by the NRD Board of Directors, who meet monthly. All certified acre transfers must also be approved by affected county assessors. Because a variety of factors affect certified acre transfers and because the transfer process can take as long as 60 days to complete, landowners are encouraged to plan ahead. If you are interested in transferring irrigated land, please stop in the NRD office, or call us at (877) 995-6688.

<http://www.tribasinncrd.org>



Managers Message

By: John Thorburn

Whose Water is it Anyway?

Water allocation. Flowmeters. Limits on irrigated acres. Restrictions on the use of groundwater

have become common across Nebraska since LB 962 required Nebraska's NRDs to limit groundwater use to protect streamflows from depletion. Most farmers have learned to live with these restrictions. Many have adapted to these limitations and become more efficient irrigators. Efficiency improvements have also made irrigation more profitable for many farmers, adding a silver lining to the dark cloud of regulation.

Nonetheless, many farmers still wonder how and why state and local governments can interfere with their "water rights". The answer to that question lies in Nebraska law books and court decisions.

Landowners can pump all the oil they can squeeze out of the rocks under their land. They can mine for coal, diamonds or gold and keep whatever they can find, although they aren't like to find precious metals or gems in Nebraska's sedimentary rocks. They can even sell the precious topsoil that covers their land.

In the case of water, landowners do not own the water itself. They are only entitled to use water for beneficial purposes. This is referred to as a *usufructuary* right. Water is treated differently from other minerals in this way under Nebraska law. In Nebraska, water is owned by "the people", which means that it is owned by the state as a whole. A landowner's right of beneficial use must, therefore, be subject to regulation and limits by the state and NRDs, who are working to pro-



tect this unique and vital commodity for the benefit of the people.

Constituents sometimes ask me whether I think that the state or NRD will ever need to shut off their wells to conserve groundwater. My reply is that, as long as they comply with the law and our rules, I can't shut off their wells unless I properly compensate them for the loss of their right.

Natural resources districts are the primary regulators of groundwater under Nebraska law. Our main tool to encourage groundwater conservation is regulations that limit landowners' ability to pump groundwater. Our power to regulate is limited, however, by both the federal and state constitutions. The fourth amendment to the US Constitution specifically protects citizens from unlawful seizure of their property. For that reason, government can reasonably limit, but cannot take away, a landowner's right to use water, unless the landowner is compensated for the loss of that right. I

need to mention at this point that, while state and local government don't have the power to shut off a landowner's well, a federal judge can order wells to be shut off if he or she finds that a state has violated an interstate agreement, such as the Republican River Compact.

Landowners have the right to use groundwater for beneficial purposes. That right carries with it the responsibility to use water wisely and efficiently. Landowners do not have the right to waste or pollute water, because those aren't *beneficial uses* of water. To the extent that landowners accept that their responsibility to wisely use water includes complying with laws and regulations, they need not be concerned about having their rights taken away.



Trees for Newborns

Each year Tri-Basin NRD honors newborns in the district with the gift of a seedling tree. These trees are available to the family of any child born in Gosper, Phelps or Kearney



County since the previous tree season (April). You can reserve a baby tree for your newest family member by calling our office at (308) 995-6699 or 1-877-995-6688 or by emailing the baby's name, birthdate, parents' names, address and phone number to esmith@tribasinrd.org. We will send you a postcard in April letting you know when and where to pick up your tree. If you have any questions, please call our office and ask for Esther.

Chemigation and Nitrogen Management Recertification

Tri-Basin NRD will be sending out renewal forms during the first part of January to producers who had chemigation permits last year. Those producers whose chemigation certification has expired will receive notification from our office and will need to attend one of the chemigation training sessions which are held in February and March. Anyone needing to add new chemigation permits for the 2007 season should contact the Tri-Basin NRD office.


Producers in Phase II and Phase III areas of the Groundwater Quality Management Area also need to have a current Nitrogen Management card. Training sessions for Nitrogen Management will be held in February and March for those producers whose training has expired. If your card has expired, you should receive notification from our office.

For specific training dates for either chemigation or nitrogen management, check Tri-Basin's website, www.tribasinrd.org. For more information on either of these programs, please contact the Tri-Basin NRD office toll-free at 1-877-995-6688.

Cost-Share Funds Available to Assist With Soil and Water Conservation

Tri-Basin NRD distributes cost-share funds to assist landowners with adopting conservation practices. The Nebraska Soil and Water Conservation Program (NSWCP) helps landowners by paying up to half of the cost of installing a variety of conservation practices like cross-fences and water supplies to improve live-stock distribution in pastures, terraces and erosion-control diversions on cropland and pipelines from wells to center pivot systems when irrigated land is converted from gravity to pivot irrigation.

Funds are available now. Landowners or their authorized representatives who are interested in working with Tri-Basin NRD to conserve soil and water can apply for cost-share funds at local USDA-Natural Resources Conservation offices in Holdrege, Minden and Elwood. Applications are reviewed for approval monthly (except applications for irrigation-related practices, which are reviewed quarterly) by the NRD Board of Directors. If there are more applications than available funds, applications are selected for approval using a rating system that estimates conservation benefits of each application. Contact Tri-Basin NRD or your local USDA-NRCS office for more information.



Nitrogen Management Reports Due

Nitrogen Management Reports for the 2007 crop year were due December 31, 2007 for producers in Phase II and Phase III of the Tri-Basin Groundwater Quality Management Area. If you have fields in the Phase II or Phase III areas and have not turned in your reports yet, please do so as soon as possible. If you need reporting forms, please contact the Tri-Basin NRD office.

ONLINE RESOURCES

- <http://dnrdata.dnr.ne.gov/wellssql/?&>.....Dept. of Natural Resources Well Data
- <http://water.usgs.gov/ogw> Ground water information
- http://www.cnppid.com/Elevation_Flows2.htm.....Reservoir elevation/Platte River Flow
- <http://tribasinrd.org/domesticwatertest.html> Domestic Nitrate Testing
- <http://www.arborday.org> Tree recommendations, identification
- <http://www.websoilsurvey.nrcs.usda.gov/app/> Determining soil type
- http://water.usgs.gov/cgi-bin/daily_flow?ne..... Current water resource conditions for Nebraska

CALENDAR OF EVENTS

(All meetings are at NRD office in Phelps County Ag Center unless otherwise noted.)

January

- January 1 - New Year's Day (Office Closed)
- January 8 - NRD Board Meeting at 1:30 p.m.*
- January 21 - Martin Luther King, Jr. Day (Office closed)
- January 31 - Holdrege Water Conference

February

- February 12 - NRD Board Meeting at 1:30 p.m.*
- February 18 - President's Day (Office closed)

March

- March 9 - Daylight Saving Time begins
- March 11 - NRD Board Meeting at 1:30 p.m.*

* Times are tentative

WATER CONSERVATION TIP

If your shower fills a one-gallon bucket in less than 20 seconds, replace the showerhead with a water-efficient model.



TRI-BASIN TOPICS is a publication of the Tri-Basin Natural Resources District, 1308 Second Street, Holdrege, NE 68949 (308) 995-6688 Toll Free 877-995-6688
E-mail tribasin@tribasinnrdd.org

TRI-BASIN NRD STAFF

John Thorburn..... General Manager
Richard Holloway..... Assistant Manager
Charles Brooks..... Land Resources Coordinator
Carie Lynch..... Administrative Secretary
Tammy Fahrenbruch..... Office Manager
Esther Smith..... Office Clerk
Nicole Salisbury..... Office Assistant
Ruth Nielsen..... Minden Office Secretary
Lori Hagan..... Elwood Office Secretary
Patty Abrahamson..... Holdrege Office Secretary

A mailing list is maintained and requests to be placed on the list should be sent to the above address. Comments and suggestions may be addressed to the General Manager.

TRI-BASIN NRD BOARD OF DIRECTORS

| | |
|--------------------------------------------|---------------------------------|
| Todd Garrelts, Chairman Holdrege, NE | Phyllis Johnson Bertrand, NE |
| David Nickel, Vice Chairman Keamey, NE | Brad Lundeen Wilcox NE |
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| Dick Helms Arapahoe, NE | |

IN THIS ISSUE
*Certified Irrigated Acres & Acre
Transfers
*Conservation Tree Order Form
*Cost share still available

RETURN SERVICE REQUESTED

**1308 Second Street
Holdrege, NE 68949**

Natural Resources District



**Non-Profit Permit
U.S. Postage
PAID
Holdrege, NE 68949
Permit No. 220**

**TRI-BASIN NATURAL RESOURCES DISTRICT
2008 HAND PLANT ORDER FORM**

NAME: _____ DATE: _____

ADDRESS: _____

CITY/STATE/ZIP: _____ PHONE: _____

ORDERS MUST BE IN MULTIPLES OF 25

Deadline for placing orders is April 4, 2008.

| SPECIES | QUANTITY |
|----------------------------------------------------|----------|
| CONIFERS | |
| AUSTRIAN PINE | |
| BLACK HILLS SPRUCE | |
| COLORADO BLUE SPRUCE | |
| PONDEROSA PINE | |
| RED CEDAR (EASTERN) | |
| <i>Subtotal</i> | |
| BROADLEAFS | |
| BLACK WALNUT | |
| BUR OAK | |
| HACKBERRY | |
| RED OAK | |
| SWAMP WHITE OAK | |
| <i>Subtotal</i> | |
| SHRUBS | |
| AMERICAN HAZEL | |
| AMERICAN PLUM | |
| BUFFALO BERRY | |
| CARAGANA | |
| CHOKECHERRY | |
| COTTONEASTER | |
| GOLDEN CURRANT | |
| LILACS | |
| SAND CHERRY | |
| SKUNKBUSH SUMAC | |
| <i>Subtotal</i> | |
| Total # of Trees | |
| Multiply total # of trees x .60 | |
| Mulch | |
| Subtotal | |
| Tax (Holdrege 7%, Elwood 5.5%, Minden 6.5%) | |
| Total Due | |

Tree Pickup will be at: _____ Tri-Basin NRD _____ Minden NRCS _____ Elwood NRCS

WHY PLANT A WINDBREAK?

Windbreaks and shelterbelts provide many benefits. Windbreaks planted along field boundaries reduce soil erosion by reducing wind velocity. Shelterbelts planted around farmsteads reduce heating costs in homes and shop buildings. Shelterbelts can protect livestock from blizzards and serve as "living snow fences". Trees and shrubs also provide food, shelter and nesting habitat for many species of birds and mammals.

NRD TREE & SHRUB PLANTINGS

Contact the NRD Office or your county NRCS for help with determining the type and number of trees and shrubs you need. The technician will make arrangements for the tree order and planting service. The NRD will plant the trees according to the plan.

Trees are planted in the spring as soon as conditions are suitable. The NRD tree planting crew will notify landowners of the approximate date and time of planting.

SITE PREPARATION

Good site preparation is a key to rapid tree growth and survival. The best site preparation begins the year before the trees are planted. On heavier soils, working the ground to kill competing vegetation is an excellent method of preparing the site. The technician assisting in planning a windbreak or habitat plot can advise you about the type of site preparation needed. The technician can also help you determine if herbicide carryover will be a problem.

WEED CONTROL

Weed control in the form of plastic mulch is available through the district. This woven material is installed over the trees after planting. Slots are then cut for the trees. Plastic mulch not only eliminates weeds but also helps to preserve soil moisture.

PRICES

Trees & Shrubs60 each/multiples of 25

PLANTING SERVICE

Tree planting (no mulch)45/ft

Trees, tree planting, mulch, and mulch laying

Tilled sites \$ 1.00/ft

Untilled sites..... \$ 1.05/ft

Drip tape30/ft

Pull in Charge \$20

Minimum plan charge \$350 per planting

PLASTIC MULCH

Material Only35 per ft

Stakes15 each

Prices are subject to change.

PLANTING YOUR OWN TREES

You can order trees and shrubs at the NRD or your local NRCS Office. Orders must be in multiples of 25 per species. We will send you a postcard when your trees arrive.

DRIP TAPE

Tri-Basin has a subsurface drip tape available for watering trees planted by the District. The water source could be a portable tank or a hydrant. Check with the TBNRD Land Resource Coordinator for more information.

COST-SHARE

Tri-Basin NRD offers cost-share funds for tree plantings and plastic mulch installation. You should apply at your county NRCS office before March 1.

All sites must be properly prepared before planting to qualify for cost-share. Reimbursement is made only after full payment is received. The minimum total cost of plantings eligible for cost-share is \$500.

Cost-share may also be available from your county USDA office. Pheasants Forever and Nebraska Game & Parks Commission also offer programs for wildlife habitat improvement. NRCS staff can help you determine which programs have funds available and best suit your needs.

BILLING ON NRD PLANTINGS

Tri-Basin NRD bills for trees/tree planting service after completion. Full payment is due upon receipt of the billing. Cost-share forms will not be finalized until payment is received at the Tri-Basin or NRCS office.