

# Request to Construct an Irrigation Well and/or Expand Water Use in the Lower Elkhorn Natural Resources District

## Combined Application for a Standard Variance and Well Permit

– Lower Elkhorn NRD Use Only –

Hydrologically connected area     
  Non-hydrologically connected area     
 Date Received: \_\_\_\_\_

Variance Application Identification Number: 17-\_\_\_\_\_

Variance Approval Number: LE-SV-\_\_\_\_\_ Variance Approval Date: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Well Permit Number: LE-\_\_\_\_\_ Well Permit Approval Date: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Approved by: \_\_\_\_\_

Number and Legal Description of Approved New Irrigated Acres: \_\_\_\_\_

**Please Print Legibly**

**1. Purpose of Variance Request and of New Well and/or Expanded Water Use (check all that apply):**

- Expansion of irrigated acres     
  Other expanded water use (describe) \_\_\_\_\_
- New well construction     
  Irrigation pit construction     
  Existing well modification (if modified to a well that requires a permit)

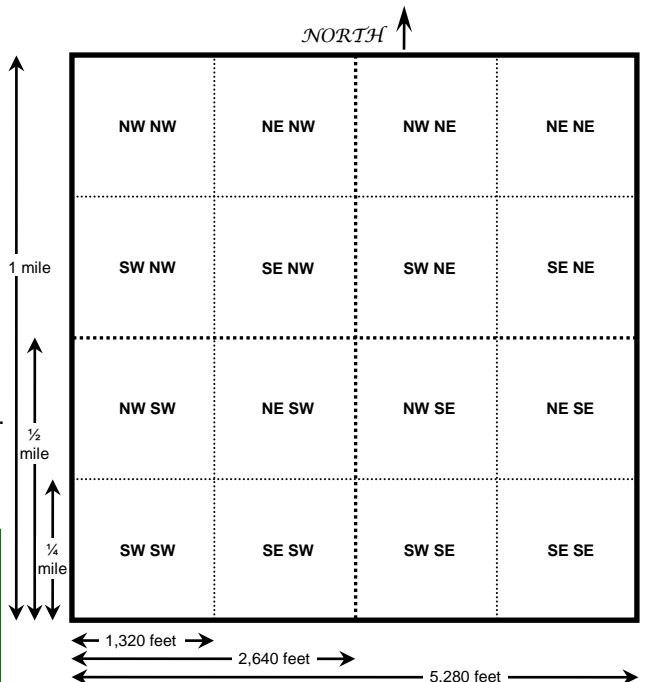
**2. Water Source and Water Use Information**

a. Well location description: \_\_\_\_\_ County,  
 Township \_\_\_\_\_ North, Range \_\_\_\_\_  East  West,  
 Section number \_\_\_\_\_

b. The well is or will be:  
 \_\_\_\_\_ feet from the  North  South, and  
 \_\_\_\_\_ feet from the  East  West section lines.  
 Latitude \_\_\_\_\_ Longitude \_\_\_\_\_

c. How many **new** irrigated acres will be developed (estimated to the nearest one-tenth of an acre)? \_\_\_\_\_ Acres.

d. Intended use of new irrigated acres (crop production, pasture, golf course, soccer field...) \_\_\_\_\_



The box at the right represents a one square mile section. Please indicate in this box:  
 ❶ The location of the proposed well with an 'X', and other sources of water that will be used to irrigate this land with an 'O'  
 ❷ outline the area(s) of **current and proposed water use** for the well(s).

**e. Legal description of new and existing water use area(s):**

County	Township	Range	Section	Location within the section	Well Reg. or SW Approp. Number(s)	Acres (New)	Acres (Existing)

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**f. Well specifications:**

Estimated or actual well yield: \_\_\_\_\_ gallons per minute, and total depth of well: \_\_\_\_\_ feet.

*Applications for expanding acres with a new well must include test hole and well yield information to be considered complete. Applicants wishing to expand irrigated acres with an existing well will be required to find records for and attach test hole information and pumping estimates for the existing well.*

**g. Irrigation application method:**

Center pivot  Volume gun  Gravity  Subsurface drip  Other \_\_\_\_\_

**h. Timeframe or schedule of water use:**

During the growing or irrigation season  Continuously throughout the year  Other \_\_\_\_\_

**i. Will reuse water (such as from a wastewater lagoon) be used as a source of water for this variance?**

If yes, please fill in the following:

Annual volume of: Intake water \_\_\_\_\_  gallons  acre inches; Discharge water \_\_\_\_\_  gallons  acre inches

Description of water use within the operation \_\_\_\_\_

Estimated total annual application to the new irrigated acres being requested: \_\_\_\_\_  acre inches

**3. Offset Water Sources and Methods – (If you do NOT intend to provide offset to lower the number of New Irrigated Acres for this application, check “No” in the first question below and then skip to section 4.)**

Description of methods to provide offset water:

Will offset water be provided by the applicant?  Yes  No (If no offset will be provided, go to section 4 below.)

Describe the source(s) and method(s) proposed to provide offset water. \_\_\_\_\_

Legal description of source(s) of offset water:

County \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_ Area within section \_\_\_\_\_

County \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_ Area within section \_\_\_\_\_

Volume of consumptive use credit for offset water \_\_\_\_\_  gallons  acre inches

Timing of consumptive use credit \_\_\_\_\_

Please attach documentation to prove your ability to secure the offset, and the timing and duration of the offset.

**4. Land Information**

Description of **current** land use: (dryland, pasture...) \_\_\_\_\_

Parcel numbers for land affected by this variance request: \_\_\_\_\_

**5. Description of Project**

Please provide a brief description of your project.

**6. Has the Applicant Applied for a Variance on the Same Tract of Land in the Past?**  Yes  No

## 7. STANDARD CONDITIONS

### VARIANCE STANDARD CONDITIONS

This application is not transferrable from one person to another person

The following conditions will apply for a Standard Variance:

- 1) A Variance approved by District only applies to the locations and/or volume of water, and if the use is dewatering, to the period of time specified in the variance approval. Any proposed additional expansion of water use in the size of the area or in volume of water applied will require an additional Variance.
- 2) Landowner has 30 days from the date the District mails the Variance to sign the Variance and return it to the District. By signing the Variance, the landowner accepts the terms and conditions of the Variance. If the landowner does not comply with this condition within 30 days, the Variance shall lapse and the landowner must request a new Variance, absent Board approval for good cause shown.
- 3) Landowner has 180 days from the date the District mails the Variance to submit an application to the District for a well construction permit (if applicable), update County assessor records and DNR well registration records on New Groundwater Irrigated Acres, and comply with any additional conditions required by the District.
- 4) The issuance of a Variance does not exempt the applicant(s) from complying with any future integrated management plan or changes to the District's groundwater management plan or any rules and regulations adopted in accordance with that plan, including future amendments.
- 5) If the irrigation activities authorized under Variance are not initially put to use within 18 months immediately following the approval date of the Variance then the Variance shall lapse and the landowner must request a new Variance absent Board approval for good cause shown.
- 6) Any person who knowingly furnishes false information regarding an application for a Variance shall be subject to the imposition of penalties imposed through the controls adopted by the District pursuant to Neb. Rev. Stat. § 46-746, and may, upon notice and opportunity for a hearing, have the Variance cancelled by the Board.
- 7) Upon the issuance of any variance, the landowner shall file a Notice of Encumbrance with the register of deeds office in the applicable county on the form provided by the District. This Notice of Encumbrance will indicate that the use of the well, which is a fixture that runs with the land, is subject to certain terms and conditions, and that any future potential buyer should obtain these terms and conditions from the District. The Notice of Encumbrance shall be filed and a file-stamp copy returned to the District within 30 days of the date the District mails the Variance. If the landowner does not comply with this condition within 30 days, the Variance shall lapse and the landowner must request a new Variance, absent Board approval for good cause shown.
- 8) Any person who violates any provision of RULES 13 and 15, or the terms and conditions of any Variance or exception granted under RULES 13 and 15, may be subject to a cease and desist order and the Variance may be subject to cancellation by the Board. This provision shall not limit any other enforcement authority or mechanism available to the District.
- 9) Applicant must equip the well (or wells) subject to the Variance with a District approved flow meter prior to groundwater withdrawal in compliance with RULE 11 of the District's Rules and Regulations.
- 10) The conditions in this subsection are the standard conditions for any variance. Because every application is fact specific, and certain circumstances may arise that require additional conditions for the conservation, protection, development, or sound management of the natural resources in the District, the Board may add additional conditions to individual Variances as it deems necessary for the protection and general welfare of the people within the District. Such additional conditions also may be necessary for the Board to find good cause exists to grant the Variance. Additional conditions will be set forth on approval of the variance application and/or pursuant to broader policies established by the District now or hereafter which shall automatically constitute additional conditions of the variance without further notices being necessary
- 11) Variances granted under the District's rules and regulations are deemed unique and special with regard to the specific application and/or application period, and do not create a precedent for future application, or matters pertaining to other lands, whether or not they are similarly situated.

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## WELL PERMIT CONDITIONS

1. The proper installation and maintenance of flow meters is required for all wells authorized by this permit; the reporting of data from these flow meters is required from ground water users; and, finally, District staff and/or their representatives are authorized to perform inspections of these flow meters.
2. Well permits are required prior to construction, or, in the case of an irrigation pit (see condition number 12), prior to pump installation, or a late fee of \$250 will be assessed.
3. A permit is required for a new or replacement water well that is a single well designed or constructed to pump more than 50 gallons per minute, or a well that is connected to one or more other wells in such a way that the wells are designed or constructed to collectively pump more than 50 gallons per minute. Connected water wells are regarded as one well, and the combined capacity shall be used for the estimated pumping capacity.
4. A permit *is not* required for dewatering wells with an intended use of 90 days or less and test holes.
5. A replacement well means a water well which is constructed to provide water for the same purpose as the original water well and is operating in accordance with any applicable permit from the Department and any applicable rules and regulations of the District and, if the purpose is for irrigation, the replacement water well delivers water to the same tract of land served by the original water well and (i) replaces a decommissioned water well within one hundred eighty (180) days after the decommissioning of the original water well, (ii) replaces a water well that has not been decommissioned but will not be used after construction of the new water well and the original water well will be decommissioned within one hundred eighty days (180) after such construction, except that in the case of a municipal water well, the original municipal water well may be used after construction of the new water well but shall be decommissioned within one year after completion of the replacement water well, or (iii) the original water well will continue to be used but will be modified and equipped within one hundred eighty days (180) after such construction of the replacement water well to pump fifty gallons per minute or less and will be used only for livestock, monitoring, observation, or any other nonconsumptive or de minimis use and approved by the District.
6. A permit must be obtained for an existing water well that did not require a permit before it is modified into a well that would otherwise require a permit.
7. If construction of the well is not complete within one year of permit approval, a new permit will be required.
8. The well authorized by this permit must comply with well spacing requirements set forth by state statutes (600 feet between registered irrigation wells not owned by the same entity, and 1000 feet between any irrigation, or industrial, or public water supply wells).
9. Water wells constructed within 50 feet of a stream bank must have a surface water right for that stream from the Nebraska Department of Natural Resources before construction of the well.
10. Any person who commences or causes construction of a well for which the required permit has not been obtained, or who knowingly furnishes false information regarding such permit shall be subject to a civil penalty if that person violates a cease and desist order. Upon violation of the cease and desist order, the District may require the water well to be decommissioned.
11. This permit does not register the well with the Nebraska Department of Natural Resources. All wells are required to be registered with the Nebraska Department of Natural Resources within 60 days after the well is completed, and must be registered under the *landowner's* name.
12. A permit is required for an irrigation pit, which is any excavation made for any purpose if groundwater flows into the excavation under natural pressure and a pump or other device is placed in the excavation for the purpose of withdrawing water from the excavation for irrigation. For such excavations, construction means placing a pump or other device into the excavation for the purpose of withdrawing water for irrigation.
13. This permit is not transferable.
14. If the legislature or courts make a determination that this permit is not valid, the District is not responsible for any damages arising therefrom to the permit holder.

**8. Applicant and Landowner Information**

**Applicant Information:**

**Landowner information, if different from applicant:**

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: (\_\_\_\_\_) - \_\_\_\_\_

PHONE: (\_\_\_\_\_) - \_\_\_\_\_

Email and or cell phone numbers (optional): \_\_\_\_\_

**9. Signatures**

The applicant must sign and date this form. *The landowner, if different from the applicant must also sign and date this form.*

**By signing this application:**

- I/we hereby certify that I/we either own or control the above described real estate pursuant to the Nebraska Revised Statute 46-735, and that the information that I/we have provided in this application is true and accurate to the best of my/our knowledge;
- I/we acknowledge that I/we have read and understand the conditions listed on pages 3 and 4 of this application;
- *I/we acknowledge that this Standard Variance, if approved, and in the event that the Lower Elkhorn NRD is declared fully appropriated pursuant to the Nebraska Revised Statutes 46-701 through 46-753, may not guarantee my/our ability to use the well in the future, and may not exempt me/us from any obligation(s) to obtain a water offset in the future;*
- I/we authorize the Lower Elkhorn NRD or its representative to enter my/our land in order to perform inspections, after proper notification; and
- I/we agree to provide a copy of a real estate property lease, power of attorney or other written documentation acknowledging my/our ability to apply for this Standard Variance under Nebraska state law within ten (10) days of any written request by the Lower Elkhorn Natural Resource District.

Before signing, please check the appropriate box below certifying the real estate property right claimed under this application.

Own Real Estate     Oral Lease that Terminates on \_\_\_\_\_     Written Lease that Terminates on \_\_\_\_\_  
 Power of Attorney \_\_\_\_\_     Other \_\_\_\_\_

Date \_\_\_\_\_ Signature of Applicant \_\_\_\_\_

Date \_\_\_\_\_ Signature of Landowner (if applicable) \_\_\_\_\_

This form must be completed in full, signed, and submitted with a \$50.00 fee (nonrefundable) to the District at the address listed below:

**Lower Elkhorn NRD**  
**P.O. Box 1204**  
**Norfolk, NE 68701**

**Be sure to attach:**

1. Current tax assessor records where water is to be used, including the legal description, parcel number and an accurate account of current land use (such as irrigation, pasture, dryland, trees, buildings ...).
2. Aerial photograph(s) marked ACCURATELY with the legal description, current land use, location(s) of current and proposed water source(s) and the area where you intend to use water.
3. Test hole logs and well yield estimates (in gallons per minute) from a Licensed Well Driller to this application if you plan to install a new well.

*Please fill out the application completely and correctly.*

**Incomplete or defective applications will be returned to the applicant.**

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**The District must receive this complete applications, including all attachments, by 4:30 p.m. on December 15, 2017 to be considered for the 2018 growing season.**

In order to process this application, we need all sections of the form completed plus the following:

1. Test hole log and estimate of well yield in gallons per minute.
2. County Assessor records of land use. The County can provide you with a printout that shows the number of acres of each soil type and land use (dryland, irrigated, buildings, wasteland, etc...). This is different than a tax statement, so you will need to contact your local County Assessor for this information. This information may be emailed to the Lower Elkhorn NRD at [bbruckner@lenrd.org](mailto:bbruckner@lenrd.org) or faxed to (402) 371-0653, or attached to the application form.
3. An aerial photo with the locations of the water source(s) and current and new irrigated acres clearly and accurately indicated. The NRD will use this information to determine several of the ranking criteria, so it is vital that this is accurate. The aerial photo must include the legal description and have the section boundaries clearly marked.
4. The area illustrated on the aerial photo from number 3 above must match the number of New Irrigated Acres requested on this application. In order to accurately score and rank your application, the NRD needs to replicate the information supplied on this application with its computer mapping program. **The application may be considered incomplete if the NRD cannot get the new irrigated area to match the number of New Irrigated Acres requested.** We recommend you work with an irrigation dealer to draw the most accurate area and provide the most accurate estimate of the number of New Irrigated Acres for your application.
5. If reuse water will be used or if you have offset water sources, please contact NRD staff.
6. You must provide a detailed written description of your project (see section 5 of the application).

**Please double-check your application to ensure that all of the information in the following checklist is included:**

	Description	Page	Section
<input type="checkbox"/>	Sketch the locations of the water source(s) and the new irrigated acres on the diagram.	1	2
<input type="checkbox"/>	The latitude and longitude (GPS coordinates) of the proposed well location.	1	2b
<input type="checkbox"/>	An <u>accurate</u> estimate (to the nearest $\frac{1}{10}$ of an acre) of the number of New Irrigated Acres requested.	1	2c
<input type="checkbox"/>	Describe all land, including currently irrigated and new irrigated acres, affected by this application in the table, along with all water source(s).	1	2e
<input type="checkbox"/>	Provide a detailed written description of the project.	2	5
<input type="checkbox"/>	Anyone who owns or controls the land described in this application may apply for a variance. If you are not the landowner, include the landowner's name and contact information.	5	8
<input type="checkbox"/>	The applicant and the landowner (if different) must sign and date the application.	5	9
<input type="checkbox"/>	Attach County Assessor information, including maps, the number of acres of each land use, parcel numbers, and legal descriptions of all affected land.		
<input type="checkbox"/>	Attach an aerial photo with new well and irrigated acres <u>clearly and accurately</u> identified, and show current irrigated land and water sources.		
<input type="checkbox"/>	You must attach test hole and a well yield estimate.		

**NRD USE ONLY**

Preliminary Rank: Score \_\_\_\_\_ Date mailed to applicant: \_\_\_\_\_ Date received back from applicant: \_\_\_\_\_

Final Rank: Score \_\_\_\_\_ Date \_\_\_\_\_ Well registration number: \_\_\_\_\_

Notes:

Category

**10/50 AREA (APPROVED SCORESHEET – Effective Nov. 9, 2017)**

**Impact to Streamflow** (Combined categories of Depletion Factor, New Acres Requested, and Average Irrigation Requirement)  
250 max. pts.

**Soil Evaluation** Weighted average of erosion potential  
**Score** by water, wind, and AWC (water storage capacity)  
300 max. pts.

<b>Well Yield Estimate</b>	1000 gpm or greater	750 gpm to 999 gpm	500 gpm to 749 gpm	499 gpm or less
	100 pts.	85 pts.	65 pts.	50 pts.

<b>Transmissivity Value</b> (from UNL C & S map)	100,000 gallons per foot per day and greater	50,000 – 99,999 gallons per foot per day	20,000 – 49,999 gallons per foot per day	<20,000 gallons per ft per day
	200 pts.	150 pts.	100 pts.	50 pts.

<b>High Capacity Well Density</b>	100,000 gallons per foot per day and greater area	0 to 21 wells	22 to 42 wells	>42 wells
		75 pts.	35 pts.	0 pts.

<b>High Capacity Well Density</b>	50,000 – 99,999 gallons per foot per day area	0 to 18 wells	19 to 36 wells	>36 wells
		75 pts.	35 pts.	0 pts.

<b>High Capacity Well Density</b>	20,000 – 49,999 gallons per foot per day area	0 to 15 wells	15 to 30 wells	>30 wells
		75 pts.	35 pts.	0 pts.

<b>High Capacity Well Density</b>	<20,000 gallons per foot per day area	0 to 12 wells	16 to 24 wells	>24 wells
		75 pts.	35 pts.	0 pts.

<b>Applied in the past but not approved</b>	Yes	No
	1 pt.	0 pts.

<b>Variance supports other Clean Water Act permit</b>	Yes	No
	74 pts.	0 pts.

**Point Deduction Categories**

Applicant has been subject to a cease and desist order within the past five years	Yes	No
	-1000	0

Proximity to a district stay area	Less than 1 mile	1 to 2 miles	More than 2 miles
	-25	-10	0

Proximity to a Wellhead Protection Area	Yes	No
	-100	0



Category

**NON 10/50 AREA (APPROVED SCORESHEET – Effective Nov. 9, 2017)**

**Impact to Streamflow** (Combined categories of Depletion Factor, New Acres Requested, and Average Irrigation Requirement)  
200 max. pts.

**Soil Evaluation** Weighted average of erosion potential  
**Score** by water, wind, and AWC (water storage capacity)  
300 max. pts.

<b>Well Yield Estimate</b>	1000 gpm or greater	750 gpm to 999 gpm	500 gpm to 749 gpm	499 gpm or less
	100 pts.	85 pts.	65 pts.	50 pts.

<b>Transmissivity Value (from UNL C &amp; S map)</b>	100,000 gallons per foot per day and greater	50,000 – 99,999 gallons per foot per day	20,000 – 49,999 gallons per foot per day	<20,000 gallons per ft per day
	250 pts.	200 pts.	100 pts.	50 pts.

<b>High Capacity Well Density</b>	100,000 gallons per foot per day and greater area	0 to 10 wells	11 to 20 wells	>20 wells
		75 pts.	35 pts.	0 pts.

<b>High Capacity Well Density</b>	50,000 – 99,999 gallons per foot per day area	0 to 9 wells	10 to 18 wells	>18 wells
		75 pts.	35 pts.	0 pts.

<b>High Capacity Well Density</b>	20,000 – 49,999 gallons per foot per day area	0 to 7 wells	8 to 15 wells	>15wells
		75 pts.	35 pts.	0 pts.

<b>High Capacity Well Density</b>	<20,000 gallons per foot per day area	0 to 5 wells	6 to 11 wells	>12 wells
		75 pts.	35 pts.	0 pts.

<b>Applied in the past but not approved</b>	Yes	No
	1 pt.	0 pts.

<b>Variance supports other Clean Water Act permit</b>	Yes	No
	74 pts.	0 pts.

**Point Deduction Categories**

Applicant has been subject to a cease and desist order within the past five years	Yes	No
	-1000	0

Proximity to a district stay area	Less than 1 mile	1 to 2 miles	More than 2 miles
	-25	-10	0

Proximity to a Wellhead Protection Area	Yes	No
	-100	0

## **Lower Elkhorn Natural Resource District –**

### **Conditional Approval Policy (Effective November 9, 2017)**

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In addition to the Conditions of Variance itemized in Sections 13.12 and 15.12 of the Lower Elkhorn Natural Resources District (District), Groundwater Management Area Rules and Regulations for the Enforcement of the Nebraska Groundwater Management and Protection Act, the District will attach the following condition to all Standard and Expedited Variances approved by the District after November 9, 2017.

To allow for expanded use of the resource and to promote the health and welfare of the District; yet provide some protection for existing groundwater quantities, an annual groundwater allocation shall be imposed on all new, replacement or supplemental wells utilized to supply water to New Groundwater Irrigated Acres under the Standard and Expedited Variance Process, including an approved Transfer of Certified Irrigated Acres. The District, through its Board of Directors, shall annually determine the allocation to be imposed as a condition of the affected Standard and/or Expedited Variance for the upcoming year. The Board may utilize whatever resources it deems appropriate when setting the aforementioned allocation. For 2018, the allocation for approved Standard and Expedited Variances shall be 9 acre inches for irrigation and maintenance of crops during the growing season and an additional 2 acre inches for establishment and maintenance of a planted cover crop.<sup>1</sup>

### **Minimum Soil Score (Effective October 26, 2017)**

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Pursuant to Sections 13.8.4 and 15.8.4 of the Lower Elkhorn Natural Resources District – Groundwater Management Area Rules and Regulations for the Enforcement of the Nebraska Groundwater Management and Protection Act Effective January 11, 2017, a minimum soil score of 90 utilizing the Natural Resources Conservation Service’s Nation Soil Information System (NASIS) must be obtained from any standard variance request to qualify for approval. Any variance application that does not achieve the minimum score or higher shall not be approved, notwithstanding the final ranking of the variance application<sup>2</sup>

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<sup>1</sup> Effective November 9, 2017

<sup>2</sup> Effective October 26, 2017