

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: 23 - _____

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)

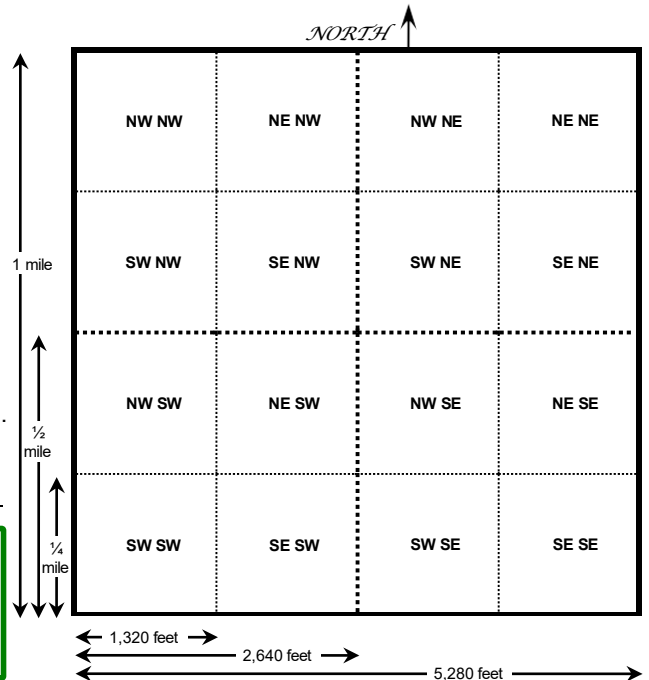
2. Water Source and Water Use Information

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 must include well yield information from three (3) high capacity wells located within a one (1) mile radius.

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. Is the land associated with this variance request situated adjacent to a parcel of land with certified irrigated acres and if approved will allow an existing center pivot to complete a 360 degree revolution?

Yes No

Legal description of adjacent irrigated parcel _____

Number of certified irrigated acres on adjacent parcel associated with this request: _____ acres

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
1508 Square Turn Boulevard
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.**

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 application, including all attachments, by 4:30 p.m. on December 1, 2023.

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, in addition to well yield information from 3 high-capacity wells located within a 1 mile radius of the proposed or existing well location.
2. County Assessor records of land use. This information can be accessed by visiting your county assessors website and printing parcel information for your respective property.
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 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:

Lower Elkhorn Natural Resource District –

Conditional Approval Policy for New Irrigation Wells (Authorized Oct. 12, 2023)

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 October 12, 2023.

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. Effective Oct. 12, 2023, the allocation for new wells constructed under an approved Standard and Expedited Variance shall be 14 inches for each certified irrigated acre associated with the variance.

Minimum Soil Score (Effective Oct. 12, 2023)

Pursuant to Sections 13.8.5 and 15.8.5 of the Lower Elkhorn Natural Resources District Groundwater Management Area Rules and Regulations for the enforcement of the Nebraska Groundwater Management and Protection Act, a minimum soil score of 80 (utilizing the Natural Resources Conservation Service's National Soil Information System (NASIS)) must be obtained for any standard variance request to qualify for approval. Any variance application that does not achieve the minimum required score shall be disqualified from consideration for approval, notwithstanding the final total score of the variance application.
