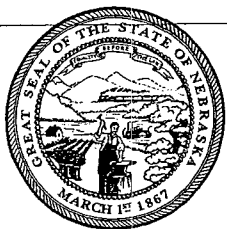


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**Dave Heineman**  
Governor

# STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES  
**Roger K. Patterson**  
Director

October 14, 2005

IN REPLY TO:

Mr. Russell D. Pankonin, Co-Publisher  
The Imperial Republican  
622 Broadway  
P.O. Box # 727  
Imperial, NE 69033

RE: Letter Request Dated October 6, 2005

Dear Mr. Pankonin:

The Nebraska Department of Natural Resources received your request for copies of public records on October 11, 2005.

This letter is being sent to comply with Neb. Rev. Stat. § 84-712(4), which provides that if the records cannot be provided to a requester with reasonable good faith efforts within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, the Department will provide a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request.

In our conversation this morning, I told you that the request as drafted in your letter was extensive, and that if you did not wish to revise the request, the Department would not be able to provide the information requested for some time period, which it cannot estimate until it researches the impact, but that the time period would most likely be a number of months.

We also discussed that your letter offered to further "clarify" the request. I advised that if you would clarify the request to include and be limited to "Republican River Compact Administration related material," or "Republican River Compact Administration computations of water use and water supply," the Department would anticipate being able to provide the requested information in about five weeks, or three weeks, respectively, from the date of this letter.

You indicated that you wished to clarify and revise your request to be limited to the following items, to the extent generated since January of 2005:

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Mr. Russell Pankonin  
October 14, 2005  
Page 2

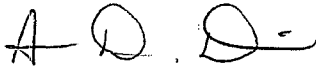
1. Republican River Compact Administration computations of water use and water supply.
2. Written correspondence with the NRDs by letter, memo, and/or email concerning Republican River Compact Compliance, but not including any such documents relating to the preparation of integrated management plans prior to their adoption.
3. Model runs involving various assumed facts to produce scenarios and make projections relating to Compact compliance.

Based on this more limited clarification of your request, the earliest date the Department could fulfill the request would be five weeks from the date of this letter. At the present time, the Department is not able to provide you an estimated cost. Please sign below and return a copy of this page to me as your acknowledgement of your revised request.

You are also advised that you may modify or prioritize the items within your request.

If you have any questions, please contact me.

Sincerely,

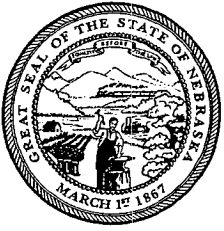


Ann D. Diers  
Legal Counsel

Acknowledgement:

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Russell D. Pankonin



**Dave Heineman**  
Governor

# STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES  
**Roger K. Patterson**  
Director

July 6, 2005

IN REPLY TO:

Stan Staab, Manager  
Lower Elkhorn NRD  
Country Club Plaza  
601 East Benjamin Ave.  
P.O. Box 1204  
Norfolk, NE 68702-1204

Dear Mr. Staab:

You have asked the Department of Natural Resources to address certain questions that have arisen about what will occur if the Department's January 1, 2006, report contains a preliminary determination that a river basin, subbasin, or reach is fully appropriated. It is to be emphasized that the Department has made no such determinations pursuant to Neb. Rev. Stat. § 46-713 at this time, nor will the Department make such determination prior to the adoption and effectiveness of rules pursuant to § 46-713(1)(d).

This said, you have asked how the law addresses the situation in which a person obtains a well construction permit and drills a well pursuant to such permit but does not use such well to irrigate prior to issuance of the report on January 1, 2006, that a particular river basin, subbasin, or reach is fully appropriated.

In such instance, Neb. Rev. Stat. § 46-714(3)(k) answers your question, and states as follows:

“Exceptions to the stays imposed pursuant to...this section shall exist for... (k) to the extent permitted by the applicable natural resources district, increases in ground water irrigated acres that result from the use of water wells that were constructed within the nine months prior to the effective date of the stay but were not used for irrigation prior to that effective date,”

It is to be noted that the ultimate answer depends on the extent to which the natural resources district allows the increase. It is further noted that, to the extent the natural resources district allows the increase in ground water irrigated acres, existing ground water users and surface water appropriators will require protection, pursuant to Neb. Rev. Stat. § 46-715(3)(c).

You have also asked what the Department's position would be, assuming again that the Department issues a Report by January 1, 2006, that preliminarily determines a natural

clrshare/diers

Mr. Stan Staab  
July 6, 2005  
Page 2

resources district to be fully appropriated, in the event a well construction permit has previously been issued by the natural resources district, but construction of the well has not commenced prior to such Department determination.

In this instance, Neb. Rev. Stat. § 46-714(2)(a) answers your question and provides as follows:

“If the department preliminarily determines a river basin, subbasin, or reach to be fully appropriated and has identified the existence of hydrologically connected surface water and ground water in such river basin, subbasin, or reach, stays shall also be imposed (a) on the construction of any new water well in the area covered by the determination if such construction has not commenced prior to the determination, whether or not a construction permit for such water well was previously obtained from the department or a natural resources district, ...”

Note that the stays referenced in Neb. Rev. Stat. § 46-714(2) begin ten days after the first publication of the notice of the preliminary determination.

We hope this information is of assistance. If you have any further questions, please let us know.

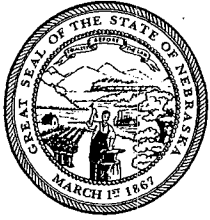
Sincerely,



Ann D. Diers  
Legal Counsel

cc: Water Well Contractors Licensing Board  
Central Platte NRD  
Little Blue NRD  
Lower Loup NRD  
Lower Platte North NRD  
Lower Republican RND  
Middle Republican NRD  
North Platte NRD  
South Platte NRD  
Twin Platte NRD  
Upper Elkhorn NRD  
Upper Niobrara-White NRD  
Dean Edson, Nebraska Association of Resources Districts  
Lewis & Clark NRD  
Lower Big Blue NRD  
Lower Niobrara NRD  
Lower Platte South NRD  
Middle Niobrara NRD  
Nemaha NRD  
Papio-Missouri River NRD  
Tri-Basin NRD  
Upper Big Blue NRD  
Upper Loup NRD  
Upper Republican NRD

# STATE OF NEBRASKA



DEPARTMENT OF NATURAL RESOURCES  
Roger K. Patterson  
Director

May 13, 2005

IN REPLY REFER TO:

Mike Johanns  
Governor

Mr. David Pope  
Division of Water Resources  
Kansas State Board of Agriculture  
901 South Kansas Avenue, 2<sup>nd</sup> Floor  
Topeka, KS 66612-1283

Dear Mr. Pope:

Enclosed are the following, pursuant to your conversation with Roger Patterson at the Compact meeting this week:

- 1) Information Sheet on CREP & EQIP;
- 2) Nebraska Platte-Republican Resources Area CREP Application;
- 3) CREP USDA Contract;
- 4) CREP Water Use Contract;
- 5) EQIP Agreement and additional materials.

It was nice meeting you today. If you have any questions about this material, let me know.

Sincerely,

Ann D. Diers  
Legal Counsel

Ig  
Enclosures

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