



Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES
Ann Bleed
Acting Director

April 11, 2006

IN REPLY TO:

Steve Smith
P.O. Box 698
Imperial, NE 69033

Dear Mr. Smith:

The Nebraska Department of Natural Resources received your deposit, April 10, 2006, for all Excel spreadsheets pertaining to the Republican River valley which you requested in the fall of 2005. Receipt of your deposit enables your request to be processed, and we are seeking to collect and review the records for forwarding to you as soon as possible. Neb. Rev. Stat. § 84-712(4) provides that if records cannot be provided to a requester with reasonable good faith efforts within four business days after actual receipt of the request, we must notify you to explain. Due to the current workload, personnel that are collecting the material are unable to finish until April 24th. The nature of the material must then be examined by legal staff regarding privilege, as some may pertain to existing lawsuits. The Attorney General's Office informs me they should be able to finish screening the material by April 27th. The public, unprivileged information will then be forwarded to you immediately. Thank you for your patience in the meanwhile.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ron Theis".

Ron Theis
Legal Counsel

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Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES
Ann Bleed
Acting Director

April 20, 2006

IN REPLY TO:

Steve Smith, Director
Waterclaim
P.O. Box 698
Imperial, NE 69033

Dear Mr. Smith:

We received your amended request for "access to all DNR records that deal with the Republican River Basin that are not privileged or sealed" on April 14, 2006. Neb. Rev. Stat. § 84-712(4) provides if the records cannot be provided to you 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, we must notify you to explain and offer an opportunity to modify or prioritize items within the request.



In order to respond to your request, we must take an inventory of all Department records relating to the Republican River basin geographic area, and review them to determine which documents are required to be withheld from the public, either because of privilege or pursuant to state law. The Department is not obligated to provide public records in any format other than the format in which the records exist in the Department. Therefore, the Department will not be aggregating the electronic material on a separate computer. Some of the material within the apparent scope of your request, i.e. well registrations, EQIP applications, etc., contains social security numbers or bank account numbers which must be excised prior to allowing public access, pursuant to Neb. Rev. Stat. 84-712.05 (16). NDNR has many records which fit the general description of your interest, many of which are very old. If it is possible for you to narrow the scope of your request, for example in terms of a time period or other limits, it will facilitate our response time to your request. Also, if you are able to narrow the scope, we may be able to more accurately estimate the time it will take to provide the records to you, and reduce the cost involved.

At this point the volume of material indicated by your parameters hampers our ability to precisely estimate the response time and expense to meet your request. For example, we believe there are about 673,000 unduplicated emails between September, 2004 and the present. It will take 9 hours of I.T. staff time plus computer run time, with about three days elapsed time, to make them available for legal review. If you want emails prior to September, 2004, it will take about 46 hours I.T. staff time, and 20 hours run time, with about two weeks elapsed time, just to recover the emails because we must re-install the operating system used during that period in

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order to extract data. In addition, the multiple search criteria necessary to find your material electronically are only useful for text files, not PDF, Excel, or Power Point files which may be attached. The latter, as well as the hard copy only records, must be manually searched.

We have extensive hard copy records fitting your request. For example, there are about 400 surface water rights relating to the Republican River. The number of pages in each of these records varies between 15 and 500. We have about 1000 microfilmed copies of canceled and denied rights in the Republican with similar page length ranges for each. We also keep Natural Resources District files and U.S. Bureau of Reclamation files within the apparent scope of your request. We have about 500 to 800 hard copies of regulating and closing notices to surface water irrigators sent during the 2005 irrigation season alone. There are about 14,000 ground water well registrations in the Republican basin, comprised from 3 to 15 pages for each one. We also have Water Policy Task Force and Natural Resource Commission materials, CREP files, ground water transfer files, map transfer files, dam inspections and inventory, flood plain material, stream flow data, aerial photography, soil data, and pending applications, among others.

The Department's website, www.dnr.ne.gov, is an access point for some material within the apparent scope of your request. We are currently intending, within the limits of our resources, to make as much relevant information available on the website as possible for citizens' use. However, electronic accessing of all our records pertaining to the Republican River area is not feasible in the near future because of the volume, and due to the Department's budgetary constraints. Your request is unique in seeking working documents and notes which would normally be considered non-record material, once final versions of documents are completed (State Records Administrator's Rule 430, Chapter 5, Section .004.02), and are not necessarily required to be retained by the Department.

We will provide you with the public records that you want within the law, but please keep in mind the cost to respond to your current request will be substantial. Neb. Rev. Stat. § 84-712 requires public bodies to provide copies of public records at the request of members of the public. However, in providing such copies, or accessing the material for copying, the custodian of the records may charge a fee, not exceeding the actual cost, including the cost of employees' time in responding. As the employees' time in gathering documents that may be responsive to your request, and analyzing electronic materials, will be expended regardless of the number of copies of materials you decide to obtain once you have received access to the documents, it will be necessarily included in the cost estimate. Due to the scope of your request, the number of hard copies would also be extensive and time consuming to produce. Unless you limit the scope of your request, the cost may be prohibitive to you, and the scope prevents us from giving an accurate estimate within the time frame indicated in § 84-712(4) it will take for the Department to respond to your request.


We are in the process of obtaining estimates from Department staff of the time it will take them to review and retrieve records that may be responsive to your request. Once we have that

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information, we will be able to provide you a very rough estimate of the earliest practicable date for fulfilling the request and an estimate of the cost, along with a request for a deposit of at least half of the estimated cost. The deposit will be due prior to the Department beginning to process your request. We anticipate being able to respond to you by May 15, 2006 with the estimates of how long it will take to process your request, and the estimated cost of your request. Note that we anticipate the estimates will be broad estimates, and that the actual time it will take to process your request, and the actual costs you will incur, may be lower or higher than the ranges given. We encourage you to take advantage of this opportunity to modify or prioritize items within your request. Possible ways to modify the request that could save time and money include providing a cutoff date (e.g., only records and materials since [enter a year]), or specifying a narrower class of information (e.g., only Republican River basin materials relating and pertaining to the Water Policy Task Force).

Please let us know as soon as possible if you would like to modify or prioritize items within your request.

Sincerely,



Ron Theis
Legal Counsel

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