

BRUCE J. MCDERMOTT, et al.,

Plaintiffs,

v.

NEBRASKA DEPARTMENT OF
NATURAL RESOURCES, ROGER
PATTERSON IN HIS CAPCITY AS
DIRECTOR, et al.,

Defendants.

Case No. CI 02-648

**SECOND AFFIDAVIT OF ROGER
PATTERSON IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

State of Nebraska) ss.
County of Lancaster)

COMES NOW AFFIANT, Roger K. Patterson, being duly sworn under oath, and
deposes and states as follows:

1.

I am the Director of the Nebraska Department of Natural Resources (NDNR). I
was appointed Director of the Nebraska Department of Water Resources in 1999, prior to
its merger into the new agency NDNR in July, 2000.

2.

At all times material hereto, as Director of the NDNR I am responsible for the
management and administration of the NDNR's duties under the Nebraska Groundwater
Management and Protection Act ("Act"). I am personally familiar with and would
authorize and direct the activities of NDNR staff as it pertains to any actions of the
Middle Republican Natural Resources District ("MRNRD") taken pursuant to the Act.

3.

The NDNR received notice from the MRNRD that MRNRD would hold a public hearing to consider adoption of a temporary suspension on the drilling of wells in the MRNRD.

4.

Pursuant to 46-656.25(3), on June 11, 2002, NDNR commented favorably, through written and oral testimony, on the MRNRD's proposed regulations to adopt a temporary suspension on the drilling of wells in the MRNRD. Attached to my previous Affidavit filed with the Court in this case as Exhibit 6 is a true and accurate copy of the written testimony of NDNR.

5.

NDNR did not direct or compel the decision by the MRNRD to deny permits as alleged by the plaintiffs in their complaint, paragraph 50.

6.

NDNR did not participate in the vote by the MRNRD to adopt the temporary suspension on the drilling of wells in the MRNRD.

7.

NDNR did not participate in the decision by the MRNRD to deny permission to drill wells after the adoption of the temporary suspension on the drilling of wells in the MRNRD. NDNR would state that given the rules and regulations as adopted by the MRNRD, the denial of such permission is required by State law, Neb. Rev. Stat. § 46-656.31.

8.

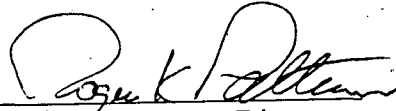
NDNR did not participate in the vote by the MRNRD to deny variance requests on August 13, 2002.

9.

NDNR did not hold any public meetings that are the subject of this action.

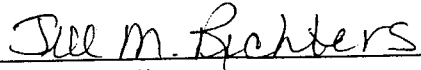
FURTHER AFFIANT SAYETH NOT

IN WITNESS HEREOF, I hereunto set my hand at Lincoln, Nebraska this 28th day of May, 2003.



Roger K. Patterson, Director
Nebraska Department of Natural Resources

Subscribed to and sworn to before me on this 28th day of May, 2003.



Notary Public

