



DEPARTMENT OF NATURAL RESOURCES

CONCEPT PAPER FOR SURFACE WATER AND GROUND WATER SUBCOMMITTEE

Domestic Use

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ISSUE NO. 1

The definition of domestic use in the statutes is located in Neb. Rev. Stat. § 46-613 and is referenced as only being pertinent to the preference statute. That definition is, *"domestic use of ground water shall mean all uses of ground water required for human needs as it relates to health, fire control, and sanitation and shall include the use of ground water for domestic livestock as related to normal farm and ranch operations..."*

Issues presented are:

1. Whether domestic refers to a household or whether it is any water used for human needs no matter what the setting. Domestic is defined in Black's Law Dictionary as *"Pertaining, belonging or relating to a home or domicile, or to the place of birth, origin, creation, or transaction"*. Nebraska has many water wells that are registered as domestic that serves multiple homes, or multiple dwellings, yet, do not meet the definition of public water supplier described in HHSS's statutes and DNR current rules. Many wells are registered as domestic wells that are used in commercial businesses and manufacturing facilities. It may be advantageous to better define domestic as it relates to human use. (See concept paper on Public Water Supply)
2. What is meant by normal farm and ranch operations. There is currently no definition of this and no definition of commercial agriculture. Therefore there are numerous commercial feeding operations which have large capacity wells that provide water for their livestock feeding pens registered as domestic wells. Attempts to define such operations by rules have not been successful. Remember that domestic wells do not have any spacing requirements or protection.
3. Many people believe that the 50 gallon-per-minute exclusion for domestic wells from the NRD permitting process is too lenient. Some states have a 2 acre-foot or 3 acre-foot per annum limit. Should domestic be defined as to a smaller amount of water?
4. Many people have told the Department that all wells should be required to be permitted by the NRD. Below are examples of possible changes to statutes for ideas.

46-735 (1) Any person who intends to construct a water well in a management area in this state on land which he or she owns or controls shall, before commencing construction apply with the district in which the water well will be

located for a permit on forms provided by the district; except that (a) no permit shall be required for test holes or dewatering wells with an intended use of ninety days or less, ~~(b) no permit shall be required for a single water well designed and constructed to pump fifty gallons per minute or less, and (c) a district may provide by rule and regulation that a permit need not be obtained for water wells defined by the district to be replacement water wells. A district may require a permit for a water well designed and constructed to pump fifty gallons per minute or less if such water well is commingled, combined, clustered, or joined with any other water well or wells or other water source, other than a water source used to water range livestock. Such wells shall be considered one water well and the combined capacity shall be used as the rated capacity. A district may by rule and regulation require that a permit be obtained for each water well or for one or more categories of water wells designed and constructed to pump fifty gallons per minute or less, other than a water source required for human needs as it relates to health, fire control, and sanitation or used to water range livestock, in ground water management areas in which regulations have been imposed to control declining ground water levels.~~ Forms shall be made available at each district in which a management area is located, in whole or in part, and at such other places as may be deemed appropriate. The district shall review such application and issue or deny the permit within thirty days after the application is filed.

OR

46-735 (1) Any person who intends to construct a water well in a management area in this state on land which he or she owns or controls shall, before commencing construction, apply with the district in which the water well will be located for a permit on forms provided by the district, except that (a) no permit shall be required for test holes or dewatering wells with an intended use of ninety days or less, (b) no permit shall be required for a single water well designed and constructed to pump fifty gallons per minute or less, and (c) a district may provide by rule and regulation that a permit need not be obtained for water wells defined by the district to be replacement water wells. A district may require a permit for a water well designed and constructed to pump fifty gallons-per-minute or less if such water well is commingled, combined, clustered, or joined with any other water well or wells or other water source, other than a water source used to water range livestock. Such wells shall be considered one water well and the combined capacity shall be used as the rated capacity. A district may by rule and regulation require that a permit be obtained for each water well or for one or more categories of water wells designed and constructed to pump fifty gallons-per-minute or less, ~~other than a water source required for human needs as it relates to health, fire control, and sanitation or used to water range livestock, in ground water management areas in which regulations have been imposed to control declining ground water levels.~~ Forms shall be made available at each district in which a management area is located, in whole or in part, and at such other places as may be deemed appropriate. The district shall review such application and issue or deny the permit within thirty days after the application is filed.