

**Ann Diers**

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**From:** Ann Diers [adiers@dnr.ne.gov]  
**Sent:** Thursday, July 06, 2006 10:41 AM  
**To:** Ann Bleed (ableed@dnr.state.ne.us)  
**Cc:** Pam Andersen (pandersen@dnr.state.ne.us); Susan France (sfrance@dnr.state.ne.us)  
**Subject:** FW: Letter to NARD/NRD Managers re 46-602

Ann:

Last week, we talked about the changes relating to replacement wells effected by LB 508. You indicated that you wanted DNR to send a letter to the NRDs with the forms that were going to be mailed out, to bring to their attention the fact that if they may need to review their rules and revise the rules if they have definitions of replacement wells that are inconsistent with the statute.

I learned from Susan that the forms and memo went out to the NRDs on Friday (the day after Pam Bonebright discussed the issue with me). The memo did not mention the above issue.

I think the issue is important enough that you will probably want to go ahead with a separate letter. I drafted a letter, and asked Pam Andersen and Susan France to review it. Pam substantially rewrote the letter, and I have attached her rewrite to this email. It is a clear, direct statement of what the changes mean, and provides information on how DNR will have to proceed.

Ann

-----Original Message-----

**From:** Pam Andersen [mailto:pandersen@dnr.ne.gov]  
**Sent:** Thursday, July 06, 2006 9:50 AM  
**To:** adiers@dnr.ne.gov  
**Subject:** RE: Letter to NARD/NRD Managers re 46-602

Nope, that was a draft of the letter Susan sent last week. Sorry.

-----Original Message-----

**From:** Ann Diers [mailto:adiers@dnr.ne.gov]  
**Sent:** Thursday, July 06, 2006 9:40 AM  
**To:** pandersen@dnr.ne.gov  
**Subject:** RE: Letter to NARD/NRD Managers re 46-602

Was the attachment you forwarded what you intended to send?  
Ann

-----Original Message-----

**From:** Pam Andersen [mailto:pandersen@dnr.ne.gov]  
**Sent:** Thursday, July 06, 2006 9:35 AM  
**To:** adiers@dnr.ne.gov; Susan France (sfrance@dnr.state.ne.us)  
**Cc:** Pam Bonebright (pbonebright@dnr.state.ne.us)  
**Subject:** RE: Letter to NARD/NRD Managers re 46-602

Ann,

I am attaching a redraft of your letter. They are only suggested changes, of course. The redraft is

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intended to be more explicit about what the change to 46-602.01 means and to say what DNR is going to do to implement it so that the letter can't be misinterpreted as just telling the NRDs what to do. Perhaps we should go one step further and tell the NRDs that are too permissive that we won't be registering replacement wells in their districts if the wells don't comply with 46-602.

Pam

-----Original Message-----

**From:** Ann Diers [mailto:adiers@dnr.ne.gov]  
**Sent:** Wednesday, July 05, 2006 2:33 PM  
**To:** Pam Andersen (pandersen@dnr.state.ne.us); Susan France (sfrance@dnr.state.ne.us)  
**Cc:** Pam Bonebright (pbonebright@dnr.state.ne.us)  
**Subject:** Letter to NARD/NRD Managers re 46-602

Pam and Susan:

Pam Bonebright emailed me late last week with her concern that some NRDs may have rules that, because they repeated the pre-July 14th statutory definition of a replacement well, may need to be revised to be compliant with the requirements in 46-602.01 going forward. I spoke with Ann Bleed about this, and she thought that we should probably send a communication with the forms that Pam B. indicated that she would be forwarding to the NRDs.

I learned today that the memo/forms went out on Friday. I reviewed the memo that went out, and it does not mention the issue that the NRDs should probably be considering.

I went ahead and prepared a draft letter that could be used as further correspondence on this issue, if Ann Bleed still wants a letter to be sent. Would you mind looking at the draft, and giving me any comments by Thursday noon? I will then let Ann know that the planned communication has already been sent, and see if she wants to go ahead with a separate letter.

Thanks.  
Ann

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July 6, 2006

Dean Edson, Executive Director  
Nebraska Association of Resources Districts  
601 South 12<sup>th</sup> St., Ste 201  
Lincoln, NE 68508

RE: Changes to Section 46-602 Effective July 14th

Dear Mr. Edson:

As you are aware, LB 508 and LB 1226 made several changes to statutes relating to ground water wells. The Department revised its forms and procedures as necessary to implement the new laws on their effective date, July 14, 2006. The forms were sent to the natural resources districts last week, along with a memorandum explaining the new procedures and how they will affect the NRDs. The memorandum covered only those changes in the law that apply directly to the Department, however, there are other changes that the NRD's need to be aware of. I would like to call to your attention to one change in particular that will require some NRD's to repeal their existing regulations regarding replacement wells.

. Section 3 of LB 508 added the following new language to section 46-602.01:

The permit issued by the natural resources district as required by the act may (1) further define a replacement water well in accordance with the act **so long as any further definition is not inconsistent with section 46-602**, (2) impose restrictions on consumptive use, or (3) impose additional restrictions based on historic consumptive use.

(Emphasis supplied). Due to this change in the statute, on and after July 14, 2006, the Department will no longer register replacement wells that meet an NRD's definition of a replacement well but not the requirements of section 46-602 unless the NRD's definition is more rather than less restrictive.

Section 46-602 was changed to add two more limits on replacement wells. As of July 14, 2006 a replacement well may only be constructed to provide water for the same purpose as the original water well and must be decommissioned before the replacement well is drilled or within 180 days after the replacement well is drilled. Previously, the law allowed one year to decommission the original well. There is a one year exception for municipal wells. The new law also lifted one restriction. Now the original well may still be used after the replacement well is constructed if the original well is modified to pump only fifty gallons per minute and is used only for certain purposes enumerated in the statute.

The Department is calling this to your attention, and will forward copies of this letter to the natural resources districts, as well. As indicated above, the changes may require that the NRDs review the wording of their existing rules to ensure that the rules are in compliance with the requirements of the statute. NRDs may wish to consult with their legal counsel on this matter.

If you, or the NRD managers, have any questions concerning this letter, please let me know.

Sincerely,

c: NRD Managers