

July 6, 2006

Dean Edson, Executive Director
Nebraska Association of Resources Districts
601 South 12th 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. ~~previously has sent an explanatory memorandum, along with forms, to the natural resources districts, to assist them in implementing the changes that will be effective on July 14th.~~

~~The Department also would like to call your attention to another change effected by LB 508, which may dictate the need for some NRDs to revise their rules (if their rules currently contain definitions of a replacement water well that either (1) are based entirely on the wording of the pre July 14th version of the statute, or (2) contain provisions that are inconsistent with the post July 14th version of the statute). Section 3 of LB 508 added the following new language to that 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