

Ann Diers

From: Pam Bonebright [pbonebright@dnr.ne.gov]
Sent: Thursday, June 29, 2006 8:52 AM
To: mthompson@dnr.ne.gov; Susan France
Cc: 'Ann Bleed'; 'Ann Diers'; 'Tina Kurtz'
Subject: RE: Transfer well
Importance: High

What does the new law about 180 days abandonment do to the settlement issues. If a well is not abandoned within 180 days as required by law as of July 14, 2006, but is abandoned within one year as required by the stipulation, do we make it a new well under out law but state under NRD eyes it is a replacement well. How are we going to be notified of this.

Also do the NRD's know that they need to change their rules for replacement wells with the new law. Many of them have their rules the same as the statute and now the statute is different. Again can a well be a new well in state's eyes and replacement in NRD?

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(402)471-0572

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

From: Mike Thompson [mailto:mthompson@dnr.ne.gov]
Sent: Wednesday, June 28, 2006 5:44 PM
To: dsmith@mrnr.org
Cc: Ann Bleed; Ann Diers; Tina Kurtz; PBonebright@dnr.ne.gov
Subject: RE: Transfer well

Dan,

In regard to the certified acres transfer and drilling a new well, the new well would not be on the same land, so it would be registered as a new well as far as our well registration process. We have to capability to document in our database that the new well is going to replace the use of the well that gets abandoned. When we do our well drilling report to the compact, we can footnote all such wells. In that way we won't have the appearance of violating the moratorium.

For compact purposes, the settlement stipulation defines a replacement well as follows:

Replacement Well: A Well that replaces an existing Well that
a) will not be used after construction of the new Well and b)
will be abandoned within one year after such construction or is
used in a manner that is excepted from the Moratorium
described in Subsections III.B.1.c.- f. of this Stipulation;

Regarding the use of the new well, the requirements for the compact would necessitate that we in Nebraska, don't transfer irrigated acres to a new well and increase consumptive use. That being the basic premise, everything that follows involves a case by case verification that there won't be CU expansion. In the moratorium exception language, Section III. B. 1. g. of the stipulation

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states:

g. Replacement Wells, subject to all limitations or permit conditions on the existing Well, or in the absence of any limitation or permit condition only if the Beneficial Consumptive Use of water from the new Well is no greater than the Historic Consumptive Use of water from the Well it is to replace.

Nebraska will calculate Historic Consumptive Use in the manner proposed in Appendix F. Nebraska shall not change its proposed method of calculating Historic Consumptive Use before providing notice to the RRCA;

The moratorium exception section continues with other potential change-of-location language. Section III. B. 1. i. states:

i. Wells to which a right or permit is transferred in accordance with state law, provided however, that the new Well:

(i) consumes no more water than the Historic Consumptive Use of water under the right or permit that is being transferred; and

(ii) is not a transfer of a right or permit that would cause an increased stream depletion upstream of Trenton Dam.

Nebraska will calculate Historic Consumptive Use in the manner proposed in Appendix F. Nebraska shall not change its proposed method of calculating Historic Consumptive Use before providing notice to the RRCA;

I have attached Appendix F for your convenience. Determining the historic consumptive use would require procedures that are partially outlined in your IMP. I noticed your proposed rule changes would explicitly require MRNRD to ensure that the well to be abandoned could have actually served the number of certified acres that are being transferred.

Another way to look at it is: does the old well have the pumping capacity to serve the all the acres that would be served by the new well? Does the existing well in question serve all the acres proposed for transfer? Do you feel that you have all the information that would be required to verify that an expansion of consumptive use would not occur by way of the transfer?

If you think the new rules will be adopted, then I think we will be getting closer to the required diligence level to not violate the CU expansion limitation on transfers that is described in the compact settlement. I hope you found this information useful.

Obviously, we still need to discuss the industrial expansion offset. Let's tackle the transfer issue first.

7/5/2006

Sincerely,

Mike

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

From: Dan Smith [mailto:dsmith@mnrnd.org]

Sent: Monday, June 26, 2006 2:54 PM

To: Mike Thompson

Subject: Transfer well

Mike,

Any thoughts on my transfer well? I have an approved variance and need to respond with the permit in 30 days from the 13th of June.

Also, we need to start discussing industrial allocations. How does a district get credits to save for new uses? If the district buys 100 certified irrigated acres and put it in a "bank", how much do we get to count? How do we protect these banked acres? Language in the settlement would limit the new use to the consumptive use of the old use. Would we use an average consumptive use of would it vary every year?

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Dan Smith, Manager  
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