

April 15, 2005

Dear _____,

As we discussed earlier this week, this letter is written to request your assistance in communicating the information contained herein to the [NRCS/FSA] offices in the State of Nebraska.

On July 16, 2004, the Department of Natural Resources (Department) provided notices to the public of its preliminary determination that certain natural resources districts were fully appropriated in their entirety. As a result of these notices, stays on new surface water uses and on increases in the number of surface water irrigated acres went into effect. Stays also went into effect on the construction of new water wells, the issuance of construction permits for wells, and on increases in acres irrigated with ground water.

The Department's preliminary determinations were made final by Orders dated September 30, 2004 and November ____, 2004. The Orders continued in effect the stays that became effective in July.

On September 15, 2004, the Department issued an Order Designating Overappropriated River Basins, Subbasins, or Reaches, and Describing Hydrologically Connected Geographic Areas. This Order related to the Platte River Basin upstream of the Kearney Canal Diversion, the North Platte River Basin, and the South Platte River Basin. The Order also resulted in stays on the issuance of new well construction permits, well construction, and increases in acres through the use of existing water wells or surface water appropriations.

The Department duly published Notice of these Orders, and provided copies of these Orders to each natural resources district impacted by the Orders. As it is our understanding that [NRCS/FSA] on occasion works directly with the natural resources districts, your state offices most likely are already aware of the Orders, and have given consideration to the issue of how the

stays that went into effect as a result of these Orders may need to be addressed in your work with landowners in the affected natural resources districts. Simply put, with stays prohibiting any increases in irrigated acres, any projects which increase acres will be required to apply to the natural resources districts or the Department for a variance from the stay. The granting of a variance to a landowner is NOT automatic, and such variance should be sought prior to any action or expenditure of funds. In essence, in order to allow increased acres, an offset will have to be obtained. If there are no acres available to offset the increase, the variance may not be allowed.

We realize the stays may pose additional challenges to your work with the natural resources districts. At the very least, it will be necessary to ascertain whether given projects will be impacted, and to plan in advance to address any such impacts with the natural resources district and the landowner.

As I indicated earlier in this letter, the natural resources districts in areas subject to the Department's Orders are well aware of the Orders, and the stays on increased acres. They should be able to discuss how joint projects may be able to proceed.

If you have any questions, or need additional information on the possible impact relating to a specific project, please feel free to call Tina Kurtz @ (402) 471-1697.

Sincerely,

Likewise, any natural resources district that in the future becomes subject to similar Order will have received notice of the Order from the Dept.

The natural resources districts

In addition to the Orders referenced above,

~~January 1, 2006~~
The Department is now required to issue annual reports on the status of all river basins in the State. The first such reports are due January 1, 2006. While the reports ~~is not to~~ have not yet been written, it is possible that as a consequence of the reports, additional natural resources districts will become subject to stays.

Good design except -
~~not~~ just
- poor health -