

Ann Diers

From: Ann Diers [adiers@dnr.state.ne.us]
Sent: Tuesday, September 13, 2005 11:22 AM
To: Dave Cookson (David.Cookson@ago.ne.gov)
Cc: Ann Bleed (ableed@dnr.state.ne.us); Tina Kurtz (tkurtz@dnr.state.ne.us)
Subject: Clarification Letter

Dave:

Attached is a further draft of the letter with the changes we discussed. I have provided both "clean" and "redlined" versions.

I will get the letter over to Senator Langemeier's office shortly.
Ann

Ann D. Diers
Legal Counsel
Nebraska Department of Natural Resources
301 Centennial Mall South
P.O. Box 94676
Lincoln, NE 68509-4676
Phone: (402) 471-3931
Fax: (402) 471-2900
e-mail: adiers@dnr.state.ne.us

9/13/2005

DNR 008240

September 7, 2005

Dear _____,

The purpose of this letter is to provide clarification regarding DNR's position provided in the August 20, 2005, letter from Senator Langemeier. The letter was intended to be a summary of the discussion at a meeting called by Senator Langemeier. The discussion focused on how to treat irrigation wells drilled but not used before January 1, 2006, in the event that a basin is designated as fully appropriated. The letter also included a potential option for providing certainty for affected well owners. My primary reason for signing Senator Langemeier's letter was to indicate the Department's willingness to assist the NRDs as they deal with this issue. Unfortunately, this letter has caused some confusion regarding the DNR's position.

The August 20, 2005 letter sets forth one option for dealing with this issue. The proposed option also suggested an additional time frame for addressing this group of wells. My signature on the letter was not intended to suggest that this option was the required method for dealing with these wells or that it was the only option. My intent was to signal DNR's acceptance of this option should an NRD choose to go that route. DNR does believe that this can be done within the statutory framework as long as all parties involved are aware that dealing with wells in this manner does not relieve the NRD and DNR of the responsibility to adopt an integrated management plan that complies with Section 46-715 of the Nebraska Groundwater Management and Protection Act. Specifically, if later it is determined that adding new irrigated acres results in not meeting the integrated management plan goals or objectives or results in streamflow depletions that adversely impact groundwater and surface water users dependant on streams for their water supply, the integrated management plan will have to address that situation, including possibly, by requiring offsets. If an offset is required, it may be provided by an individual water user, or collectively by all water users in the basin.

It is not presently possible to know whether adding new irrigated acreage in a given basin will cause a water supply/water use imbalance or adversely impact streamflow. As a result we cannot say one way or another whether any specific controls or incentive programs in an integrated management plan will be required in an integrated management plan because of new streamflow depletions caused by any new consumptive uses of water.

Again I apologize for any confusion caused by the August 20, 2005, letter. Hopefully this letter will clarify the DNR's position on this issue. If you have further questions or concerns, please feel free to call me at 402-471-2366.

Sincerely,

Ann Bleed
Acting Director

Xc: (NRDs, Senators at the meeting, and others who received a copy of the August 20 letter)