



**Dave Heineman**  
Governor

# STATE OF NEBRASKA

**DEPARTMENT OF NATURAL RESOURCES**  
**Ann Bleed**  
Director

June 5, 2007

IN REPLY TO:

TO: Natural Resources District Managers

FROM: Pam Andersen, General Counsel *pd*

SUBJECT: Water Well Registrations

I am writing this memorandum to clarify why the Department of Natural Resources cannot allow the natural resources districts to change water well registration information without written acknowledgement that the water well owner has seen the information and agreed to the changes. This issue has come up because many of the natural resources districts are getting GPS locations of water wells in conjunction with their irrigated acreage certification programs or other programs and these location coordinates are usually more accurate than the location description in the registration database. Also, there are many situations when the staff of a natural resources district learns that a tract of land has new owners and the water well registration has not been changed as the law requires or the owners have moved and not changed the address information in the database. Some of the NRDs have asked DNR if the district can change the water well registration database without getting the approval or written permission or acquiescence of the owner of the water well. The Department has not allowed this for several good reasons.

First of all, the law does not allow changes to be made by anyone but the water well owners or licensed water well contractors in certain limited situations. Furthermore, the law makes it a crime for the landowner or water well contractor to not change the registration within 60 days of a change in ownership or use or the discovery of any inaccuracy. The responsibility for registering water wells and needed changes to water well registrations rests squarely on licensed water well contractors and water well owners. If DNR were to allow the districts to make changes to water well registrations it would be nearly impossible to successfully prosecute landowners and water well contractors for failing to make the modifications themselves. It would also make it difficult for HHS to revoke or suspend the licenses of water well contractors who have not followed the required registration and modification procedures.

Second, the water well registration database is a record of ownership used by banks and others to determine the true ownership of water wells. Unfortunately, it is not unheard of for divorcing couples, quarrelling siblings and other unhappy people to try and change the water well registration information with the intent of defrauding someone else. The Department has to be very careful that it has the written permission of water well owners to avoid unintentionally being a part of any such scheme and also just to avoid mistakes about ownership that may affect farm leases, probate proceedings, agricultural loans and other situations where water well

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ownership and information is important. If DNR were to allow the natural resources districts to make these changes without the landowner's permission, the districts would be making themselves vulnerable to accusations by anyone involved in an ownership dispute or similar situation.

Third, the modifications requested by the districts are not always accurate. The Department has allowed the districts to submit necessary changes their staffs have discovered as long as the landowner has seen the changes and signed a form that acknowledges the accuracy of the information. When an NRD sends in the changes to the water well registration information with the landowner's written consent, the Department makes the requested changes and then sends notice to the landowner that the changes have been made. Many times the landowner contacts the Department after receiving this notice to complain that the NRD's information was inaccurate. Of course, the Department has to change the registration in accordance with the owner's instructions. These inaccuracies place the NRDs in a very awkward position since the landowner is criminally liable for the accuracy of the registration information. It isn't clear why the landowner don't catch the inaccuracies when the information is provided to them by the NRD. It may be that the landowner is signing a lot of documents at one time and doesn't really understand how the water well registration is going to be changed since it is mixed in with a lot of other information. In some cases it appears that the landowner signed the form without actually seeing the water well registration modification information beforehand. The NRDs should take great pains to avoid having this happen.

DNR appreciates any information submitted by the NRDs and will happily get the permission of the landowner to make the recommended changes. DNR will also continue to accept the landowner consent forms attached to the NRD's forms and information. Every time DNR changes a water well registration, the landowner is sent a copy of the changes made so any mistakes the natural resources district may make should become obvious to the landowner.

Another problem that comes up frequently is identifying the wrong person as the owner of the water well. I know that many times a tenant or relative of the landowner will pay to have a water well installed. That person may own the pump, casing and other improvements but they do not own the water well. The water well is the hole in the ground and is owned by the landowner. It may be possible for the tenant or relative to get a deed of easement that creates a property interest in the water well. However, without a deed of easement the landowner is the owner of the water well.

cc: Dean Edson