

Ann Diers

From: Susan France [sfrance@dnr.ne.gov]
Sent: Friday, March 24, 2006 6:41 AM
To: ableed@dnr.ne.gov; jcook@dnr.ne.gov; 'Ann Bleed'; 'Ann Diers'; 'Susan France >'; 'Tina Kurtz >'
Subject: RE: Memo to Roy Lyles at NPNRD

Our policy is not clear, and that is why we need to complete the memo I sent earlier this week. However, in the Hergert case in the NPNRD, we found Hergert's existing water well which was registered as an irrigation well to be an illegal well at the time that Keener drilled his irrigation well. We found the Hergert well was illegal because it was not being used as an irrigation well and had been being used as a domestic well, but he had not informed the Department of a change in use. We ordered Hergert to file a modification to show it was a domestic well, and we ordered that if he was going to use the well as an irrigation well, he would have to get a spacing permit because he would violate Keener's spacing. That is the last formal action we have taken. We need to be sure we are all on the same page, and that is the reason for the memo.

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

From: Ann Bleed [mailto:ableed@dnr.ne.gov]
Sent: Friday, March 24, 2006 5:42 AM
To: jcook@dnr.ne.gov; 'Ann Bleed'; 'Ann Diers'; 'Susan France >'; 'Tina Kurtz >'
Subject: RE: Memo to Roy Lyles at NPNRD

I agree we should register the well and keep that process separate from the spacing issue. Our well registration data base is simply that, a record of the wells that are out there and the characteristics. My problem, however, is who should be injured if there is a well spacing problem? Obviously if a variance can be granted and all are happy, then everything is fine. But what happens if for whatever reason a variance can't be granted? In that case I don't think the properly registered well should bear the burden for the improperly registered or non registered well. I do agree that we have to be careful about how picky we get. What is our policy now? Ann

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

From: Jim Cook [mailto:jcook@dnr.ne.gov]
Sent: Thursday, March 23, 2006 2:26 PM
To: ableed@dnr.ne.gov; 'Ann Bleed'; 'Ann Diers'; 'Susan France >'; 'Tina Kurtz >'
Subject: RE: Memo to Roy Lyles at NPNRD

Ann, my views on the situation you describe were included in my 3-21 note about Document 35. I don't think the old well is in violation of 46-609 because it was not "drilled" in violation of that statute. The only consequences to the owner of the old well as a result of the well being improperly located on the registration may be to lose the benefits of the spacing statute. Granted, the old well may be an "illegal well" just because it is not properly registered, but we have to be careful about how picky we get on that point. Where is the line between being properly and improperly located—3 meters, 100 meters, same ¼ section, etc.? Also regardless of the answer as to whether the old well is in violation of 46-609, I view that as separate from the registration. The more I think about this, the more I am convinced that we should allow the registration to be corrected and then deal separately with the question of whether the well needs a spacing permit under 46-610 or needs to be decommissioned because a permit can't be granted. Jim

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

From: Ann Bleed [mailto:ableed@dnr.ne.gov]
Sent: Thursday, March 23, 2006 1:41 PM
To: jcook@dnr.ne.gov; Ann Bleed; Ann Diers; Susan France > ; Tina Kurtz >
Subject: RE: Memo to Roy Lyles at NPNRD

Jim this looks good to me but just one question to make sure we are all on the same page. If a well has not been registered or is registered in the wrong location and a new well gets properly registered but the new well violates the spacing requirements of the

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unregistered/improperly located well, which well is in violation. It is my, and others in the DNR's contention that it is the old well that is not properly registered that is responsible for getting the spacing variance or being decommissioned. Any thoughts? I would assume if you agree with me, that such a well would be the type of well you are talking about in your last paragraph. Ann

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

From: Jim Cook [mailto:jcook@dnr.ne.gov]

Sent: Thursday, March 23, 2006 11:02 AM

To: Ann Bleed; Ann Diers; Susan France >; Tina Kurtz >

Subject: Memo to Roy Lyles at NPNRD

Attached is a draft memo to Roy Lyles at the NPNRD; the purpose of the memo is to answer 2 questions that Roy asked me earlier this week. I am forwarding the draft to you before sending it to Roy because I want to be sure that I am not misrepresenting the department with my answer to question 2. That question relates to well registrations. Please review and let me know if you have any concerns ASAP but no later than Monday noon. Jim

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