

Ann Diers

From: Jim Cook [jcook@dnr.state.ne.us]
Sent: Thursday, April 28, 2005 1:12 PM
To: dvogler@dnr.state.ne.us; 'ann bleed'; 'Ann Diers'; 'susan france'; 'roger patterson'
Subject: RE: 46-706 variance options

Dave, minor changes on this one as well. Jim

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

From: DVogler [mailto:dvogler@dnr.state.ne.us]
Sent: Thursday, April 28, 2005 11:28 AM
To: ann bleed; jim cook; Ann Diers; susan france; roger patterson
Subject: 46-706 variance options

I think the problem identified with the term "variance" can be corrected simply by changing the definition of variance. As you recall, 46-714(3)(j) states that "Exceptions to the stays imposed pursuant to subsection (1), (2), (9), or (10) of this section shall exist for . . . water wells and increases in ground water irrigated acres for which a variance is granted by the applicable natural resources district for good cause shown". The current definition of variance in 46-606(29) is "the approval to act in a manner contrary to existing rules or regulations from a governing body whose rule or regulation is otherwise applicable."

Since some NRD's don't have rules or regulations addressing the stays, the current definition of variance causes the problem.

I checked the statutes and the only place that "variance" appears in Sections 46-701 through 46-753 is in the definition section (46-706) and in section 46-714.

By redefining the term variance, as in the attached, I think the problem will be resolved.

4/28/2005

DNR 015292

46-706. Terms, defined.

- | (29) Variance means an approval to deviate from a restriction imposed ~~an action taken~~ under the provisions of [Sections 46-701 through 46-753] [Section 46-714].