

Ann Diers

From: DVogler [dvogler@dnr.state.ne.us]
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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

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46-706. Terms, defined.

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