

STATE OF NEBRASKA



DEPARTMENT OF NATURAL RESOURCES
Roger K. Patterson
Director

March 8, 2005

IN REPLY REFER TO:

Mike Johanns
Governor

TO: Republican Basin Natural Resources Districts

FROM: Roger Patterson

A handwritten signature in black ink that reads "Roger K. Patterson".

SUBJECT: Replacement/Abandoned Wells

We understand that the recent letter concerning replacement and abandonment of the original wells is causing concerns. As you are all aware, under the Republican River Settlement, we are not to allow any "new" wells within a certain area of the basin.

It is our understanding that there may be several wells that were permitted by the natural resources district and drilled with the intent of being replacement wells, (or in the Lower Republican Natural Resources District were drilled before permits were required) but for whatever reason, the original well was not abandoned within the one year required by Neb. Rev. Stat. § 46-602(2) (Reissue 2004) for registration as a replacement water well.

In those cases where the factual situation is that the beneficial consumptive use of the newly constructed water well will not exceed the historic consumptive use of water from the original water well and the water well owner will decommission the original well prior to any use by the new well (or if the well was used last season, prior to any additional use) and within 90 days from the date of this letter, the Department recommends the following actions. The Department believes such actions will meet Nebraska statutes and the intent of the Republican River Compact Settlement.

1. The local natural resources district, if they wish to do so, may grant a variance for a "new/replacement" well. This is required for any NRD within a fully appropriated area where an integrated management plan is not in place. Therefore, MRNRD need not grant a variance unless its rules require it. The natural resources district can then grant a permit (or modify the original permit or in LRNRD's case just state that they agree to allow the well to be registered as a "new/replacement" well) to show that the water well will be a new water well for purposes of registration, but a replacement well for purposes of use. A copy of the permit (or LRNRD's agreement) must be submitted to this Department. The District will attach to the permit (or agreement) a description of why such a well is physically a "replacement" well, even though it will be considered a new

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water well under the definition stated in Neb. Rev. Stat. § 46-602(2). Specifically, this description must include information that indicates why the beneficial consumptive use of water from the new well will be no greater than the historic consumptive use of water from the original water well, the reason why the original water well was not decommissioned within the one year time period, and an agreement by the water well owner that they will abandon the original water well within 90 days and prior to any use from the new well.

2. The Department of Natural Resources will register such new water well in accordance with Nebraska statutes. This will mean the new water well will receive a new water well registration number. However, the Department will add fields to its water well registration data base to indicate for the original water well that the use of such well was replaced by the new well, and for the new well, that the use of the new water well replaces the use of the previously existing water well.
3. A notice of abandonment for the original well must be filed in the Department of Natural Resources.
4. A Modification of Water Well Registration must be filed by the water well owner stating that for purposes of registration this is a new water well, but for purposes of use, the water well is a replacement well.