



Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES
Brian P. Dunnigan, P.E.
Director

September 12, 2014

IN REPLY TO:

SUBJECT: Department's Next Steps Regarding the Draft Revised Rule Title 457,
Chapter 24, for the Department of Natural Resources

Dear Interested Stakeholder:

As you are aware, over the past several years the Nebraska Department of Natural Resources (Department) has been working to develop a new rule related to the determination of fully appropriated basins, sub-basins, or reaches. The development of this rule has included several opportunities for stakeholders to comment on draft versions of the new rule.

Following the public meetings and public hearing in 2013, the Department has gathered additional feedback through an on-line survey. The results of the survey indicate widespread dissatisfaction with the currently promulgated rule, generally referred to as the 65/85 rule, and its ability to meet stated criteria. The Department is working to release an updated draft version of the rules that went to hearing in September of 2013 to incorporate feedback from the survey that sought additional clarification of critical rule elements. The timeline for moving forward with this version of the draft rule will consist of the following activities:

1. **(Early October 2014)** Correspondence will be sent to all stakeholders informing them of specific dates/times/locations when public forums will be held across the State to take further comments on the draft rule. In addition to the correspondence, the Department will provide a link to a revised version of the rule on the Department's website that includes various changes including additional clarification of key terms.
2. **(December 2014)** Public forums will be held at various locations across the State to take input on the draft rule. The Department will also take written comments on the draft rule through December 31, 2014.
3. **(January-February 2015)** The Department will evaluate public comments and work to incorporate any necessary changes into the draft rule based on input from the public forums and written comments.
4. **(March 2015)** Correspondence will be sent regarding the date/time/location of the public hearing on the final draft rule.

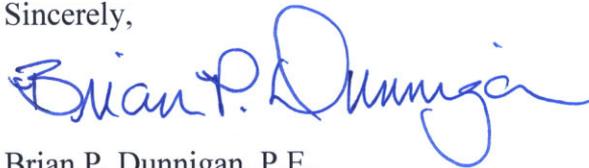
5. **(April 2015)** The public hearing will be held and formal written and oral testimony will be accepted on the draft final rule.

Upon completion of the public hearing in April, the Department will evaluate whether the rule should be formally promulgated. Should the rule be formally promulgated, the Department will work to complete that process by December 2015. If the Department's evaluation indicates that the rule should not be promulgated then the rule process will likely terminate and the Department will continue to use its current rule structure for future fully appropriated designations as well as determinations of the difference between overappropriated and fully appropriated (in the case of the Platte River Basin upstream of Elm Creek).

In preparing for the upcoming public forums I again encourage you to visit the Department's INSIGHT website (<http://www.dnr.nebraska.gov/insight/>). INSIGHT is aimed at streamlining the distribution of the data, analysis, models, methods, and summarized results of water supply and water demand assessments that were done utilizing the same concepts and methods that were proposed under the Department's draft rule that was the subject of the 2013 public hearing. Assessments have been completed for the Big Blue River, Little Blue River, Niobrara River, Bazile Creek, Loup River, Elkhorn River, and Lower Platte River basins.

We appreciate your involvement in this process and look forward to receiving your input at public forums later this year.

Sincerely,



Brian P. Dunnigan, P.E.
Director