

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DENYING PERMIT TO DRILL A WATER WELL WITHOUT REGARD TO MINIMUM

STATUTORY SPACING

The Director of the Department of Natural Resources (Department) denies Application WSP-114, for a permit to drill an irrigation well within 600 feet of existing irrigation well G-062588, submitted by Jerry McAhren.

The Director concludes that application WSP-114 does not sufficiently meet the factors and conditions set forth in *Neb. Rev. Stat. § 46-610(2)*, as follows:

1. The Applicant currently operates two irrigation wells on the subject property, one of which is intended to be decommissioned when the proposed well is constructed. Maps provided with the application show that a quantity of land area outside the sweep of the Applicant's planned pivot may be available to be used as the location for a new irrigation well. This remaining land area, which also encompasses the Applicant's existing wells, is located greater than 600 feet from any irrigation wells under different ownership on neighboring parcels. Thus, other locations exist on the property that would involve no violation of the statutory spacing of any other irrigation well.

Based on the above information, the Department concludes that locating the proposed well less than 600 feet from neighboring irrigation well G-065288 is not necessary to the implementation of the Applicant's proposed irrigation-system improvements on the property.

2. The Department acknowledges that the Applicant may incur additional expense as a result of locating the proposed well at a point other than the planned pivot point. The Department considers that the potential expenses of converting the property's irrigation system already form a part of the Applicant's decision to make these changes and do not, of themselves, provide sufficient justification for allowing the statutory spacing protection of an adjacent landowner's irrigation well to be set aside.
3. The Applicant stated that locating the new well at a point other than the proposed location may compromise the safety of operating farm equipment on the subject property. The Department is unaware, at this time, of any specific analyses of the incidence of on-farm accidents directly correlated to the location of an irrigation well at a point other than the pivot point, and the development and implementation of safe farming practices lies outside the authority and expertise of the Department. State statute does not specify wellsite safety as a factor that the Director must consider in deciding whether to approve or deny any permit application.

The Department concludes that an allegation of safety should not be considered in the matter of WSP-114.

4. The Applicant has not alleged that the proposed well location would provide any especially advantageous access to ground water on his property that could not be obtained at any other potential location on the subject property. The Applicant currently operates two irrigation wells on the property, one of which will continue to be used. In addition, the Applicant plans to construct a new irrigation well on the property, regardless of the final location of the new well.

The Department concludes that site-specific characteristics of the available water supply do not appear to affect the intended construction of a new well, and the Applicant's access to ground water would not be detrimentally affected by the location of the new well at a site other than that proposed in application WSP-114.

DEPARTMENT OF NATURAL RESOURCES

May 6, 2014


Brian P. Dunnigan, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this Order may request a contested case hearing, in accordance with the *Neb. Admin. Procedures Act* §§ 84-901 et. seq. RRS and the Department's *Rules of Practice and Procedure Title 454 Neb. Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4th Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the Approval and be accompanied by a filing fee of \$10.

A copy of this Order denying Permit WSP-114 was mailed on May 6, 2014, to the Department's field office in Bridgeport, Nebraska, and to the following:

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