

LEGISLATIVE BILL 458

Approved by the Governor March 18, 2002

Introduced by Baker, 44

AN ACT relating to water; to amend sections 46-677, 46-1225, and 46-1237.03, Reissue Revised Statutes of Nebraska, section 46-656.28, Revised Statutes Supplement, 2000, and sections 46-230, 46-602, 46-606, 61-210, and 76-2,124, Revised Statutes Supplement, 2001; to change and eliminate provisions relating to fees; to provide a termination date relating to the crediting of such fees; to change a termination date for temporary suspension of water well drilling; to change a date for permits to transfer ground water; to eliminate a reporting duty and change certain payment provisions under the Water Well Standards and Contractors' Licensing Act; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 46-230, Revised Statutes Supplement, 2001, is amended to read:

46-230. As the adjudication of a stream progresses and as each claim is finally adjudicated, the director shall make and cause to be entered of record in his or her office an order determining and establishing the ~~several~~ priorities of right to use the water of such stream, the amount of the appropriation of the ~~several~~ persons claiming water from such stream and the character of use for which each appropriation ~~shall be~~ is found to have been made, and the address of the owner of each water appropriation. It shall be the duty of every owner of an appropriation to give notice to the department of its address and any change of its address or of the name of the owner of the appropriation. Notification shall be in such form and shall include such evidence of ownership as the director may by regulation require. Upon receipt of such notice, the department shall update its records. ~~The department shall establish a uniform fee for filing such notices, notices filed pursuant to section 76-2,124, and notices filed pursuant to subsection (6) of section 46-602.~~ Such fees shall be no higher than the amount necessary to cover the costs incurred by the department for processing such notices in accordance with this section, ~~subsection (6) of section 46-602, and section 76-2,124.~~ The fee shall be paid at the time of filing the notice and shall be remitted to the State Treasurer for credit to the Department of Natural Resources Cash Fund. The department shall not collect a fee for the filing of the notice.

Sec. 2. Section 46-602, Revised Statutes Supplement, 2001, is amended to read:

46-602. (1) Each water well completed in this state on or after July 1, 2001, excluding test holes and dewatering wells to be used for less than ninety days, shall be registered with the Department of Natural Resources as provided in this section within sixty days after completion of construction of the water well. The water well contractor as defined in section 46-1213 constructing the water well, or the owner of the water well if the owner constructed the water well, shall file the registration on a form made available by the department and shall also file with the department the information from the well log required pursuant to section 46-1241. The department shall, by January 1, 2002, provide water well contractors with the option of filing such registration forms electronically. No signature shall be required on forms filed electronically. The fee required by section 46-1224 shall be the source of funds for any required fee to a contractor which provides the on-line services for such registration. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to section 46-1224.

(2) If the newly constructed water well is a replacement water well, the registration number of the water well it replaces, if applicable, and the date the original water well was or will be decommissioned shall be included on the registration form. For purposes of this section, replacement water well means a water well which (a) replaces an abandoned water well within three years after the last operation of the abandoned water well or replaces a water well that will not be used after construction of the new water well and the original water well will be abandoned within one year after such construction and (b) is constructed to provide water to the same tract of land served by the water well being replaced. No water well shall be registered as

a replacement water well until the department has received a properly completed notice of abandonment for the water well being replaced.

(3) For a series of two or more water wells completed and pumped into a common carrier as part of a single site plan for irrigation purposes, a registration form and a detailed site plan shall be filed for each water well. The registration form shall include the registration numbers of other water wells included in the series if such water wells are already registered.

(4) A series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground shall be considered as one water well. One registration form and a detailed site plan shall be filed for each such series.

(5) One registration form shall be required along with a detailed site plan which shows the location of each such water well in the site and a log from each such water well for water wells constructed as part of a single site plan for (a) monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground, (b) water wells constructed as part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and (c) water well owners who have a permit issued pursuant to the Industrial Ground Water Regulatory Act and also have an underground injection control permit issued by the Department of Environmental Quality.

(6) The department shall be notified by the owner of any change in the ownership of a water well required to be registered under this section. Notification shall be in such form and include such evidence of ownership as the Director of Natural Resources by rule and regulation directs. The department shall use such notice to update the registration on file. ~~The department shall establish a uniform fee for filing such notices, notices filed pursuant to section 76-2,124, and notices filed pursuant to section 46-230. Such fees shall be no higher than the amount necessary to cover the costs incurred by the department for processing such notices in accordance with this section and sections 46-230 and 76-2,124. The fee shall be paid at the time of filing the notice and shall be remitted to the State Treasurer for credit to the Department of Natural Resources Cash Fund~~ The department shall not collect a fee for the filing of the notice.

(7) The water well contractor or pump installation contractor responsible therefor shall notify the department on a form provided by the department of any pump installation or any modifications to the construction of the water well or pump, after the initial registration of the well. A water well owner shall notify the department on a form provided by the department of any other changes or any inaccuracies in recorded water well information, including, but not limited to, changes in use. ~~The fee for filing any such document shall be governed by section 33-105~~ The department shall not collect a fee for the filing of the notice.

(8) Whenever a water well becomes an illegal water well as defined in section 46-656.07, the owner of the water well shall either correct the deficiency that causes the well to be an illegal water well or shall cause the proper decommissioning of the water well in accordance with rules and regulations adopted pursuant to the Water Well Standards and Contractors' Licensing Act. Upon proper decommissioning of any water well, written notice of abandonment shall be provided by the owner to the department within sixty days. The department shall not collect a fee for the filing of the notice.

(9) Except for water wells which are used solely for domestic purposes and were constructed before September 9, 1993, and for test holes and dewatering wells used for less than ninety days, each water well which was completed in this state before July 1, 2001, and which is not registered on that date shall be an illegal water well until it is registered with the Department of Natural Resources. Such registration shall be completed by a water well contractor or by the current owner of the water well, shall be on forms provided by the department, and shall provide as much of the information required by subsections (1) through (5) of this section for registration of a new water well as is possible at the time of registration.

Sec. 3. Section 46-606, Revised Statutes Supplement, 2001, is amended to read:

46-606. (1) The Director of Natural Resources shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each water well registered under section 46-602 except as provided in subsections (2) through (5) of this section.

(2) For water wells permitted pursuant to the Industrial Ground Water Regulatory Act, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each of the first ten such water wells registered under section 46-602, and for each group

of ten or fewer such water wells registered thereafter, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224.

(3) For a series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground, the director shall collect in advance a fee of thirty dollars for each such series and the fee required by section 46-1224.

(4) For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each of the first five such water wells registered under section 46-602, and for each group of five or fewer such water wells registered thereafter, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224. However, if such water wells are a part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall be collected as if only one water well was being registered and the fee required by section 46-1224 shall be collected.

(5) (a) For a series of two or more water wells completed and pumped into a common carrier as part of a single site plan for irrigation purposes, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each of the first two such wells registered under section 46-602.

(b) Any additional water wells which are part of a series registered under this subsection shall not be subject to a new well registration fee.

(6) The director shall remit the fees collected to the State Treasurer for credit to the appropriate fund. The From the registration fees required by subsections (1) through (5) of this section, the State Treasurer shall credit to the Department of Natural Resources Cash Fund one-half the amount determined by the Department of Natural Resources to be necessary to pay for the costs of notices filed pursuant to section 46-230, the costs of water resources update notices required by section 76-2,124, and the costs for making corrections to water well registration data authorized by subsections (6) and (7) of section 46-602 and shall credit the remainder of the registration fees required by subsections (1) through (5) of this section to the Water Well Decommissioning Fund. From the fees required by section 46-1224, the State Treasurer shall credit to the Department of Natural Resources Cash Fund one-half the amount determined by the Department of Natural Resources to be necessary to pay for the costs of registering such water wells on-line as authorized by subsection (1) of section 46-1224 the notices filed pursuant to section 46-230, the costs of water resources update notices required by section 76-2,124, and the costs for making corrections to water well registration data authorized by subsections (6) and (7) of section 46-602 and shall credit the remainder of the fees required by section 46-1224 to the Water Well Standards and Contractors' Licensing Fund. This subsection terminates on December 31, 2004.

Sec. 4. Section 46-656.28, Revised Statutes Supplement, 2000, is amended to read:

46-656.28. (1) If a district on its own motion or following a request by a surface water appropriator, surface water project sponsor, ground water user, the Department of Natural Resources, or another state agency has reason to believe that a management area should be designated for integrated management of hydrologically connected ground water and surface water or that controls in a management area should be adopted to include such integrated management, the district may utilize the procedures established in sections 46-656.19 to 46-656.21 or may request that the affected appropriators, the affected surface water project sponsors, and the Department of Natural Resources consult with the district and that studies and a hearing be held on the preparation of a joint action plan for the integrated management of hydrologically connected ground water and surface water.

(2) If, following a request from a district and as a result of information available to the Department of Natural Resources and following preliminary investigation, the Director of Natural Resources makes a preliminary determination that there is a reason to believe that the use of hydrologically connected ground water and surface water resources is contributing to or is in the reasonably foreseeable future likely to contribute to (a) conflicts between ground water users and surface water appropriators, (b) disputes over interstate compacts or decrees, or (c) difficulties fulfilling the provisions of other formal state contracts or agreements, the department shall, in cooperation with any appropriate state

agency and district, conduct or coordinate any necessary studies to determine the cause of such conflicts, disputes, or difficulties and the extent of the area affected. Such studies shall be prioritized and completed within a reasonable time following such preliminary determination. The department shall issue a written report of such preliminary findings within ninety days after the completion of any such studies. The department shall consider all relevant portions of the ground water management plan developed by the district pursuant to sections 46-656.12 to 46-656.16 during the study required by this section.

(3) If the director determines from any studies conducted pursuant to subsection (2) of this section or from information otherwise available that the use of hydrologically connected ground water and surface water resources is contributing to or is in the reasonably foreseeable future likely to contribute to conflicts between ground water users and surface water appropriators, to disputes over interstate compacts or decrees, or to difficulties fulfilling the provisions of other formal state contracts or agreements and that conflicts between ground water users and surface water appropriators, disputes over interstate compacts or decrees, or difficulties fulfilling the provisions of other formal state contracts or agreements could be eliminated or reduced through the exercise of the authority granted by subsection (5) of this section, he or she shall, within thirty days after completion of the report required by subsection (2) of this section, consult with the affected surface water appropriators and district containing the area affected by such conflicts, disputes, or difficulties and fix a time and place for a public hearing to consider the report, hear any other relevant evidence, and secure testimony on whether a joint action plan should be prepared. The hearing shall be held within ninety days after completion of the report, shall be open to the public, and shall be located within or in reasonable proximity to the area considered in the report. Notice of the hearing shall be published in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks. The last publication shall be not less than seven days prior to the hearing. The notice shall provide a general description of all areas which will be considered for inclusion in the management area for which the district and director are considering in the preparation of a joint action plan.

(4) At the hearing, all interested persons shall be allowed to appear and present testimony. The Conservation and Survey Division of the University of Nebraska, the Department of Health and Human Services Regulation and Licensure, the Department of Environmental Quality, the affected surface water project sponsor or sponsors, and the appropriate surface water appropriators and district or districts may offer as evidence any information in their possession relevant to the purpose of the hearing. Within ninety days after the hearing or after any further studies or investigations conducted by or on behalf of the director as he or she deems necessary, the district shall determine by order whether to proceed with developing a joint action plan for integrated management.

If the district determines that it should proceed and the district and the director determine that a joint action plan should be prepared, the district and the director shall develop a joint action plan to be utilized within the area in order to mitigate or eliminate conflicts between ground water users and surface water appropriators, disputes over interstate compacts or decrees, or difficulties fulfilling the provisions of other formal state contracts or agreements.

(5) The district's portion of the joint action plan developed under this section shall include one or more of the controls authorized by section 46-656.25 and shall be completed within one year after the date of the district's resolution to proceed. The portion of the joint action plan developed by the Department of Natural Resources shall be completed within one year after the date of the district's resolution to proceed and shall include one or more of the following measures concerning the use of surface water:

(a) Increased monitoring and enforcement of surface water diversion rates and amounts diverted annually;

(b) The prohibition or limitation of additional surface water appropriations;

(c) Requirements for surface water appropriators to apply or utilize reasonable conservation measures or best management practices consistent with the good husbandry and other requirements of section 46-231; or

(d) Other reasonable restrictions on surface water use that are consistent with the intent of section 46-656.05 and the requirements of section 46-231.

If the department determines that surface water appropriators should be required to apply or utilize reasonable conservation measures or best

management practices, the department's portion of the joint action plan shall allow the affected surface water appropriators and surface water project sponsors a reasonable amount of time, not to exceed one hundred eighty days unless extended by the department, to identify the conservation measures or best management practices to be applied or utilized and a schedule for such application and utilization.

(6) In developing their respective portions of the joint action plan authorized by subsection (5) of this section, the department and the district shall consider, but not be limited to considering, whether it reasonably appears that such action would mitigate or eliminate the condition which led to designation of the management area or the adoption of a joint action plan for the management area or will improve the administration of the management area.

(7) The district shall also determine that designation of a management area and adoption of a joint action plan would be in the public interest.

(8) Neither well registration dates nor appropriation dates shall be a factor in determining whether a management area shall be designated or a joint action plan prepared.

(9) In determining whether designating a management area or adopting a joint action plan would be in the public interest, the district shall consider (a) the impacts of the existing or projected diminution or degradation of water resources on (i) surface water appropriators, (ii) ground water users, (iii) public health and safety, (iv) social, economic, and environmental values in the affected area or areas, and (v) compliance with state laws, rules, or regulations, including, but not limited to, constitutional and statutory preferences in the use of water and interstate compacts or decrees, and (b) whether designation and implementation of a management area or adoption and implementation of a joint action plan would prevent or alleviate the impact of such diminution or degradation of water resources.

(10) Following completion of the district's and the director's portions of the joint action plan, the district, in order to establish a management area, shall fix a time and place for a public hearing to consider the joint action plan information and to hear any other relevant evidence. The hearing shall be held within sixty days after completion of the joint action plan and shall be located within or in reasonable proximity to the area proposed for designation as a management area.

Notice of the hearing shall be published at the expense of the district in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks. The last publication shall be not less than seven days prior to the hearing. The notice shall provide a general description of the contents of the joint action plan and of the area which will be considered for inclusion in the management area and shall provide the text of all controls proposed for adoption by the district and the department.

All interested persons shall be allowed to appear and present testimony. The hearing shall include testimony of a representative of the department and shall include the results of any studies or investigations conducted by the district or the director.

(11) Within ninety days after the hearing the district shall determine by order whether a management area shall be designated.

If the district determines that a management area shall be established, the district shall by order designate the area as a management area and shall adopt the joint action plan, to include one or more controls authorized by section 46-656.25 and subsection (5) of this section to be utilized within the area in order to mitigate or eliminate the conflicts, disputes, or difficulties described in subsection (9) of this section. Such an order shall include a geographic and stratigraphic definition of the area. The boundaries and controls shall take into account any considerations brought forth at the hearing and administrative factors directly affecting the ability of the district to implement and carry out local ground water management.

The controls adopted shall not include controls substantially different from those set forth in the notice of the hearing. The area designated by the order shall not include any area not included in the notice of the hearing.

(12) The district shall cause a copy of any order adopted pursuant to subsection (11) of this section to be published once each week for three consecutive weeks in a local newspaper published or of general circulation in the area involved. The last publication shall be not less than ten days prior to the effective date of the order. The order shall become effective on the date specified by the district but not later than ninety days after the date

of establishment of the management area.

(13) Modification of a district's portion of a joint action plan may be accomplished utilizing the procedure established for the initial adoption of the joint action plan. Modification of the boundaries of a district-designated management area for integrated management or dissolution of such an area shall be in accordance with the procedures established in sections 46-656.19 to 46-656.21. Hearings for such modifications or for dissolution may not be initiated more often than once a year. Modification of controls also may be accomplished using the procedure in such sections.

(14) Each district in which a joint action plan for a management area has been adopted shall, in cooperation with the surface water appropriators, any surface water project sponsors, and the department, establish a program to monitor use of hydrologically connected ground water and surface water resources in the area which is contributing to or is in the reasonably foreseeable future likely to contribute to conflicts between ground water users and surface water appropriators, to disputes over interstate compacts or decrees, or to difficulties fulfilling the provisions of other formal state contracts or agreements.

(15) For the purpose of determining whether conflicts exist between ground water users and surface water appropriators, surface water appropriators under the Nebraska Ground Water Management and Protection Act does not include holders of instream flow appropriations under sections 46-2,107 to 46-2,119.

(16) (a) If a district, in accordance with subsection (1) of this section, has initiated the process for the preparation of a joint action plan for the integrated management of hydrologically connected ground water and surface water, the district may adopt regulations to require a temporary suspension in the drilling of certain new wells in the district or portion of the district for which the preparation of the joint action plan is proposed. If such temporary suspension is imposed, it shall apply to all new wells in the geographic area involved except (i) test holes or dewatering wells with an intended use of ninety days or less, (ii) water wells designed and constructed to pump fifty gallons per minute or less, and (iii) water wells defined by the district to be replacement water wells. The regulations to impose such temporary suspension may be adopted only after a public hearing for which notice has been given as provided in section 46-656.19. Any such temporary suspension could be imposed initially for not to exceed three years, but could be extended thereafter on an annual basis for not to exceed two years if necessary to allow adoption and implementation of a management area and action plan in accordance with subsections (11) and (12) of this section.

(b) Any such temporary suspension shall be immediately rescinded for the applicable portion or portions of the geographic area involved if any of the following events occur: (i) The director determines, in accordance with subsection (2) or (3) of this section that there is no reason to believe that the conditions described in such subsections exist and that therefor no hearing is required on a question of whether a joint action plan should be prepared; (ii) the district determines, pursuant to subsection (5), (6), (7), (8), or (9) of this section that it should not proceed to develop a joint action plan; (iii) the district determines pursuant to subsection (11) of this section that a management area should not be adopted; or (iv) an order adopted by the district pursuant to subsection (11) of this section becomes effective and designates the area or areas involved as a management area and adopts a joint action plan which includes one or more controls authorized by section 46-656.25.

(c) The district may grant a variance from the temporary suspension if it determines that construction of a new well is necessary to alleviate an emergency situation involving the provision of water for human consumption.

This subsection does not authorize the Department of Natural Resources to temporarily suspend drilling of water wells.

This subsection terminates on December 31, ~~2002~~ 2007.

Sec. 5. Section 46-677, Reissue Revised Statutes of Nebraska, is amended to read:

46-677. (1) Except as provided in section 46-678.01, (a) any person who desires to withdraw and transfer ground water from aquifers located within the State of Nebraska for industrial purposes shall, prior to commencing construction of any water wells, obtain from the director a permit to authorize such withdrawal and transfer of such ground water and (b) any person who prior to April 23, 1993, has withdrawn ground water from aquifers located in the State of Nebraska for industrial purposes may file an application for a permit to authorize the transfer of such ground water ~~within five years after such date~~ at any time.

(2) For purposes of this section, industrial purposes ~~shall include~~

includes manufacturing, commercial, and power generation uses of water and commercial use ~~shall include~~ includes, but is not be limited to, maintenance of the turf of a golf course.

Sec. 6. Section 46-1225, Reissue Revised Statutes of Nebraska, is amended to read:

46-1225. (1) The board shall require that each individual licensed or certified pursuant to the Water Well Standards and Contractors' Licensing Act shall attend at least eighteen hours of continuing education in any three-year period in approved schools, clinics, forums, lectures, courses of study, or educational seminars relating to the practice of such profession or occupation as a prerequisite for the renewal of a license or certificate. The board shall consult with the appropriate professional academies, professional societies, and professional associations in the development of educational programs designed to promote the utilization and application of new techniques, advances, and the achievements of research assuring expansive and comprehensive service to the public. Such continuing education shall be obtained at a school, clinic, forum, lecture, course of study, or educational seminar approved by the board which may be held either within or outside the state. At least eighteen hours of approved schools, clinics, forums, lectures, courses of study, or educational seminars shall be available at approved schools, clinics, forums, lectures, courses of study, or educational seminars held within the State of Nebraska in any three-year period. The department may contract with institutions of higher learning, professional organizations, or qualified individuals to provide continuing education programs if the continuing education required pursuant to this section is not otherwise available.

(2) Each renewal applicant shall, on or before the date of expiration of his or her license or certificate in the year the requirement applies, certify on an affidavit form provided by the board that he or she has complied with the continuing education requirement during the preceding period. ~~The board shall, on or before the date of expiration of the license or certificate in the year the requirement applies, report all licensees and certificate holders who have complied with the educational requirement to the Director of Regulation and Licensure.~~ Any licensee or certificate holder who has not complied with the educational requirement shall not be issued a renewal license or certificate, unless he or she is exempted from the requirement or he or she is unable to comply with the requirement due to circumstances beyond his or her control as determined by the board. Procedures for refusal of renewal of licenses and certificates or reinstatement of licenses and certificates shall be in accordance with section 46-1237.

Sec. 7. Section 46-1237.03, Reissue Revised Statutes of Nebraska, is amended to read:

46-1237.03. If an order issued under the Water Well Standards and Contractors' Licensing Act is adverse to the licensee or certificate holder, the costs shall be charged to him or her as in ordinary civil actions in the district court, but if the department is the unsuccessful party, the costs shall be paid out of any money ~~in the Bureau of Environmental Health~~ of the department available for that purpose. Witness fees and costs may be taxed according to the rules prevailing in the district court. All costs accrued at the instance of the department when it is the successful party, which the department certifies cannot be collected from the defendant, shall be paid out of any available funds ~~in the bureau of the department~~.

Sec. 8. Section 61-210, Revised Statutes Supplement, 2001, is amended to read:

61-210. The Department of Natural Resources Cash Fund is created. The State Treasurer shall credit to such fund such money as is specifically appropriated or reappropriated by the Legislature. The State Treasurer shall also credit such fund with payments, if any, accepted for services rendered by the department and fees collected pursuant to subdivision (10) of section 33-105, ~~subsection (6) of section 46-602, subsection (6) of section 46-606, sections 46-230, 61-209, and 76-2,124~~ and section 61-209. The funds made available to the Department of Natural Resources by the United States, through the Natural Resources Conservation Service of the Department of Agriculture or through any other agencies, shall be credited to the fund by the State Treasurer. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The Department of Natural Resources shall allocate money from the fund to pay costs of the programs or activities of the department. The Director of Administrative Services, upon receipt of proper vouchers approved by the department, shall issue warrants on the fund, and the State Treasurer shall countersign and pay from, but never in

excess of, the amounts to the credit of the fund. The State Treasurer shall transfer any money in the Department of Water Resources Cash Fund and in the Nebraska Natural Resources Commission Cash Fund on July 1, 2000, to the Department of Natural Resources Cash Fund.

Sec. 9. Section 76-2,124, Revised Statutes Supplement, 2001, is amended to read:

76-2,124. (1) Any person transferring ownership of real property not inside the corporate limits of a municipality shall complete and provide to the transferee, at or before the closing of the transfer, a water resources update notice acknowledging (a) whether any surface water rights issued pursuant to Chapter 46, article 2, and in the name of any party other than an irrigation district, public power and irrigation district, or mutual irrigation company are attached to the real property, ownership of which is being transferred, and (b) whether there are any water wells, except water wells used solely for domestic purposes and constructed prior to September 9, 1993, on the real property, ownership of which is being transferred. If the water resources update notice discloses the existence of such surface water rights or such water wells, the transferee shall complete the water resources update notice and shall file it with the Department of Natural Resources within sixty days after recording the deed or other instrument by which the transfer of ownership of real property is made. The department shall use such notice to update ownership of surface water rights and water well registrations as required by sections 46-230 and 46-602.

(2) The department shall prescribe the form and content of the water resources update notice and shall make such forms available to title insurance companies and other persons as deemed appropriate by the department. The requirement that a water resources update notice be filed with the department or the failure to file such a notice does not affect the recording, legality, or sufficiency of a deed or other instrument evidencing the transfer of ownership of real property.

(3) ~~The department shall establish a uniform fee which shall be no higher than the amount necessary to cover costs incurred by the department for processing not collect a fee for the filing of the water resources update notices. 7 notices filed pursuant to section 46-230, and notices filed pursuant to subsection (6) of section 46-602. The fee shall be paid at the time of filing the water resources update notice and shall be remitted to the State Treasurer for credit to the Department of Natural Resources Cash Fund.~~

Sec. 10. Original sections 46-677, 46-1225, and 46-1237.03, Reissue Revised Statutes of Nebraska, section 46-656.28, Revised Statutes Supplement, 2000, and sections 46-230, 46-602, 46-606, 61-210, and 76-2,124, Revised Statutes Supplement, 2001, are repealed.