STATE OF NEBRASKA
Office of the Attorney General

2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
1235 K ST. FAX (402) 471-4725

DON STENBERG
ATTORNEY GENERAL

STEVE GRASZ
LAURIE SMITH CAMP
DEPUTY ATTORNEYS GENERAL

#01024

NO. STATE OF NEBRASKA
OFFICIAL
JUN 26 2001
DEPT. OF JUSTICE

DATE: June 18, 2001

SUBJECT: Installation of new wiring for water wells

REQUESTED BY: Terry L. Carlson, Executive Director, State Electrical Board

WRITTEN BY: Don Stenberg, Attorney General
Mark D. Starr, Assistant Attorney General

QUESTION: Are persons who install new electrical wiring for water wells and related equipment required to be licensed by the State Electrical Board?

CONCLUSION: Yes.

You have advised that a representative of the Nebraska Department of Health and Human Services has indicated to you that the Department believes that statutes regulating water wells give it the authority to permit persons who have been licensed by the Department as water well installers to install all electrical wiring which is part of the well system. You question whether the statutes granting the Department authority over water wells are so broad.

Nothing in the State Electrical Act would suggest that the wiring of a water well falls outside the Board's jurisdiction. According to Neb. Rev. Stat. § 81-2106 and § 81-2108 (1999), one needs one of a number of kinds of electrician's licenses in order to install electrical wiring, apparatus or equipment for someone else. Irrigation system wiring and

Jennifer M. Amen
David K. Arterburn
William R. Barger
L. Jay Bartel
Frances M. Bertsch
J. Kirk Brown
Marie C. Clarke
Delores N. Coe-Barbee
Dale A. Comer
David D. Cookson
Kyle C. Dahl
Scott G. Gunem
Susan J. Gustafson
Robert E. Harkins
Royce N. Harper
Jason W. Hayes
Amber F. Herrick
William L. Howland
Marilyn B. Hutchinson
Kimberly A. Klein
Charlotte R. Koranda
George R. Love
Charles E. Lowe
Lynn A. Melson
Ronald D. Moravec
Fredrick F. Neid
Teresa J. Nutzman-Buller
Thomas J. Olsen
Hobert B. Rupe
James D. Smith
James H. Spears
Mark D. Starr
Martin Swanson
John R. Thompson
Melanie J. Whittamore-Mantzios
Linda L. Willard

Printed with soy ink on recycled paper

well pump wiring were specifically mentioned as the sorts of things that could be covered under special electrician licenses. Neb. Rev. Stat. § 81-2102(19) (1999).

Pursuant to Neb. Rev. Stat. § 81-2112 (1999), the Board adopted regulations concerning some of these special licenses. See 100 NAC 9 (1994). Provision was made by the Board for irrigation system wiring, but not water well wiring. However, that the Board did not extend such special licenses to all who might have been covered does not change the fact that the legislation clearly envisioned that well-pump electrical installations were in the Board's bailiwick.[1] Similarly, the fact that by law the Board has not been issuing new special licenses since 1993,[2] does not mean that those areas for which special licenses were available now fall outside the Board's authority. Rather, it simply means that persons entering those fields now must obtain one of the types of presently available electrician licenses.[3]

It is true that the Water Well Standards and Contractors' Licensing Act, Neb. Rev. Stat. §§ 46-1201 to 46-1241 (1998), envisions that those who install water well pumps be licensed by the Department of Health and Human Services. Neb. Rev. Stat. §§ 46-1202, 46-1208, 46-1209, 46-1211 (1998). The Act is concerned with pump installation practices, in addition to the various other aspects of water wells. See Neb. Rev. Stat. §§46-1223(2), 46-1227 and 46-1233. However, working with the electrical wiring is not specifically mentioned, and the main focus of the Act appears to be on keeping the water safe. For example, the definition of "Installation of pumps and pumping equipment" found in Neb. Rev. Stat. § 46-1208 (1998) is "the procedure employed in the placement and preparation for operation of pumps and pumping equipment at the water well location, including all construction or repair involved in making entrance to the water well, *which involves the breaking of the well seal*." Emphasis added. Neb. Rev. Stat. § 46-1202 (1998), which sets forth the purpose of the Act, while containing a broad, general statement about protecting the health and welfare of the citizenry, has as its emphasis the protection of ground water and the integrity of the water supply.

One might argue that the Water Well Standards and Contractors' Licensing Act ought to control because it specifically deals with water wells, whereas the State Electrical Act is more general. However, the Electrical Act is arguably the more specific of the two when it

---

[1] We understand that the special license issued for irrigation wiring was deemed by the Board to cover well pump wiring.

[2] With the exception of fire alarm installer licenses. Neb. Rev. Stat. § 81-2112.02 (1999).

[3] Persons holding special licenses in 1993, such as irrigation system wiring licenses, were authorized by law to renew their licenses and continue to do the work which could be done pursuant to such licenses. Neb. Rev. Stat. §81-2117.02(2)(1999).

comes to working with the electrical components of the system. The fact that the Electrical Act authorized a special license for well pump wiring also supports this view, notwithstanding that the authority to create such special licenses was not used and has expired.

We are of the view that the two Acts need to be read together. On-site water well pump installation and wiring will need to be performed by one who possesses both an electrician license and an appropriate license from the Department of Health and Human Services, or, alternatively, both a licensed electrician and a licensed pump installer will need to be employed.

Sincerely,

Don Stenberg
Attorney General

Mark D. Starr
Assistant Attorney General

Approved:

Attorney General

26-528-10.8