

IN THE DISTRICT COURT OF BROWN COUNTY, NEBRASKA

NIOBRARA RIVER RANCH, L.L.C.,
Plaintiff-Appellant,

vs.

NIOBRARA COUNCIL, an
intergovernmental agency,
Defendant-Appellee.

Case No. CI02-3

**ORDER DIRECTING
CORRECTION OF
TRANSCRIPT**

SUBJECT OF ORDER: Correction of Transcript.

ORDER: After examination of the files, the court finds, determines, and orders:

1. The defendant-appellee has purported to file a “transcript” of the agency record by a filing on February 21, 2002. The purported transcript is not prepared in compliance with Neb. Ct. R. of Prac. 4B.

2. On the Court’s own motion, it is therefore ordered that the transcript shall be corrected and refiled with the court clerk within 14 days of the date of this order, to be corrected in the following particulars:

a. The transcript shall comply in all respects with Rule 4B, including, but not limited to, requirements of typing or photocopying, permanency, color, file stamp or notation, page size, page weight, fastening, absence of stapling, page numbering, indexing, and certification.

b. The transcript shall not contain original documents or original records of the agency. The transcript shall not contain hearing exhibits, which must be incorporated in the agency bill of exceptions. The agency shall not submit audio tapes, which are either hearing exhibits or agency records, and in either event should not be included in the transcript.

3. The defendant-appellee is granted leave to withdraw the transcript, and the clerk of the court shall upon request from the defendant-appellee or its counsel return the original filing including all extraneous materials submitted therewith, for the purpose of making such corrections. In the event that defendant-appellee fails to have the transcript corrected in compliance with this order, the appeal shall

proceed as if no transcript was furnished by the defendant-appellee.

4. The defendant-appellee is admonished that the purported transcript fails to comply with Rule 4B to such extent that it cannot be characterized as a good faith attempt to comply with the Rule 4B. Failure to maintain strict adherence to the rule requirements may result in a decision without further notice reversing the agency decision and remanding for a new hearing.

IT IS SO ORDERED.

Signed in chambers at Ainsworth, Nebraska, on February 27, 2002.

DEEMED ENTERED upon filing by court clerk.

If checked, the Court Clerk shall:

- : Mail a copy of this order to all counsel of record and to any pro se parties.
Done on _____, 20____ by _____.
- : Note the decision on the trial docket as: [date of filing] Signed "Order Directing Correction of Transcript" entered.
Done on _____, 20____ by _____.

Mailed to:

BY THE COURT:

William B. Cassel
District Judge