

## *2003 Press Releases*

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**JON BRUNING**  
ATTORNEY GENERAL

**Attorney General Bruning Announces Settlement with  
GlaxoSmithKline and Bayer Corporation**

For Immediate Release:  
May 30, 2003

Contact: Holley Bolen  
(402) 471-3888

LINCOLN—Attorney General Jon Bruning announced today that settlement agreements have been reached with GlaxoSmithKline (GSK) and Bayer Corporation for violating the federal Medicaid drug rebate statute. Nebraska will receive an excess of \$2.2 million between the two companies who failed to report “best price” information and their resulting failure to pay sufficient rebates to the state Medicaid programs in connection with their private labeling of certain drugs for health maintenance organizations.

These settlements together – which include 49 states and the District of Columbia – with two major drug manufacturers represent the largest national Medicaid fraud settlements ever.

Attorney General Jon Bruning stated, “Medicaid fraud deserves our utmost attention as it harms patients and cheats taxpayers. This settlement should serve as a warning that if you commit fraud in Nebraska, be prepared to face great penalties.”

“The recovery of this money will help offset the Medicaid program’s pharmaceutical costs,” said Steve Curtiss, Director of the Department of Health and Human Services Finance and Support. “In this time of budget cuts, it’s welcome money.”

Medicaid is the federal/state health care insurance program that provides health care coverage for the economically disadvantaged. The National Association of Medicaid Fraud Control Units represents the 48 federally certified Medicaid Fraud Control Units that investigate and prosecute Medicaid provider fraud.

The federal Medicaid drug rebate statute is designed to return money to the Medicaid program in the form of rebates from drug manufacturers. Under the statute, in order to have the pharmaceuticals eligible for Medicaid payment, all pharmaceutical manufacturers must provide “best price” information to the Centers for Medicare and Medicaid Services (CMS, formerly HCFA). “Best price” is the lowest price that a manufacturer offers its products for sale to commercial purchasers. CMS uses this “best price” information to calculate rebates payable to the state Medicaid programs under the statute.

Both Bayer and GlaxoSmithKline sold products to HMOs at deeply discounted prices, and then concealed and avoided their obligation to pay additional rebates to the Medicaid programs. This was accomplished by re-labeling or re-packaging these drugs under the HMO’s private label. This fraud scheme is referred to as “lick and stick.”



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**JON BRUNING**  
ATTORNEY GENERAL

May 29, 2003

Op Ed  
Attorney General Jon Bruning:  
Missouri River Litigation  
Omaha World Herald

I appreciate your interest in the Missouri River disputes, and I want to assure you that my office is acting entirely from a "position of scientific knowledge." A position that is the result of thoughtful, planned consulting by a number of parties. What I want to clarify is that the interests of Nebraska go far beyond just an environment versus navigation debate. Nebraska has the most to gain, and as a result the most to lose, in any change in the operation of the Missouri River. That is why I am committed to protecting Nebraska's interests in the ongoing litigation.

Your recent editorial did an excellent job of outlining the ongoing dispute between the environmental and navigation interests. My office has reviewed the studies referred to and several additional studies regarding the other benefits to Nebraska from operations of the Missouri River system. Those benefits are water supply (thermal cooling for Nebraska's power plants and municipal water supplies), cost effective hydropower for Nebraska's public power consumers and recreation (marinas, boating and fishing).

What has been consistently left out of the debate is the fact that these other benefits far outweigh either the environmental benefits or navigation benefits. A report issued by the National Academy of Sciences last year estimated that the economic benefits to Nebraska from water supply, hydropower and recreation totals more than \$420 million each year. This total includes benefits derived from water for thermal power plants, like Cooper Nuclear and Fort Calhoun, municipalities like Omaha, and hydroelectric power for Nebraska's public power districts and recreation. These benefits, plus additional benefits from the new development in Omaha, are based on maintaining sufficient river flows.

Even with so much at stake, Nebraska has been at the forefront of advocating a balanced approach to river operations. This includes the

(MORE)

compromise proposed by the Missouri River Basin Association; a proposal that has been opposed by the navigation industry. That compromise includes testing a spring rise component and a lower summer flow, but not so low as to significantly damage Nebraska's economy.

Last spring, South Dakota started a series of lawsuits by several states and now private interest groups, each designed to protect their interests. Each one of these cases is trying to accomplish the same result – change the way the U.S. Army Corps of Engineers operates the Missouri River system. Most of the lawsuits filed so far ask the Courts to reduce river flows passing through Nebraska.

This undertaking is about protecting Nebraska's interests. It is about irrigation, power, economic stability and protecting our state resources. Ultimately, any significant reduction in river flows will result in higher consumer costs, lost economic benefits and further strain on Nebraska's already troubled economy. I think that it is well worth the State of Nebraska's time and money to protect our interest and believe it is my obligation to do so.



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**JON BRUNING**  
ATTORNEY GENERAL

Nebraska Asks Courts to Combine Multiple Missouri River Lawsuits  
And Halt Proceedings Until Pending Appeal Is Decided

For Immediate Release:  
May 23, 2003

Contact: Holley Bolen  
(402) 471-3888

Lincoln, NE--Today Nebraska Attorney General Jon Bruning requested that the seven pending Missouri River cases filed in four different Federal Courts be combined. Nebraska's motion to transfer, filed today with the Federal Multi-District Litigation Panel, requests the transfer of all of the pending Missouri River cases to one court. Nebraska also asked the Eighth Circuit Court of Appeals to stay all six cases pending in that Circuit until the Court rules on the pending appeals from last year.

Last spring, South Dakota started a series of lawsuits by several states, each designed to protect its interests. Ultimately, four different cases were filed. This spring the lawsuit filing began again with three new lawsuits. Each one of these cases is trying to accomplish the same result – change the way the U.S. Army Corps of Engineers operates the Missouri River system.

“The continued filing of multiple lawsuits in multiple locations will ultimately waste the limited resources we have available to defend Nebraska's interests,” said Bruning. “Most importantly, the multiple lawsuits will likely not result in a new river operation that balances the needs of all the states and other interests. We hope the other parties to the lawsuits join us in seeking a reasoned and knowledgeable solution to the operation of the Missouri River.”

A report issued by the National Academy of Sciences last year estimated the economic benefits to Nebraska from water supply totals more than \$420 million each year. This total includes benefits derived from water for thermal power plants like Cooper Nuclear and Fort Calhoun, municipalities like Omaha, and hydroelectric power for Nebraska's public power districts and recreation. These benefits, plus additional benefits from the new development in Omaha, are based on maintaining sufficient river flows. Most of the lawsuits filed so far ask the Courts to reduce river flows passing through Nebraska. Any significant reduction in river flows will result in higher consumer costs, lost economic benefits and further strain on Nebraska's already troubled economy.



Regan Anson

05/19/2003 02:16 PM

To: GOV, GOV\_Newsroom, GOV\_proandbudget, Code Agency Directors,  
Code Agency PIOs, State Senators  
Subject: NEWS RELEASE - Gov. Johanns: U.S. Supreme Court Approves  
Republican River Settlement

FOR IMMEDIATE RELEASE  
May 19, 2003, 2:15pm CT

CONTACT

Chris Peterson, Governor's Office, 402-471-1967  
Holley Bolen, Attorney General's Office, 402-471-3888

## **Gov. Johanns: U.S. Supreme Court Approves Republican River Settlement**

(Lincoln, NE) Gov. Mike Johanns along with Attorney General Jon Bruning today announced that the U.S. Supreme Court approved the settlement negotiated by the States of Nebraska, Kansas and Colorado to resolve the Republican River litigation.

Gov. Johanns said, "Nebraska is pleased this litigation has been brought to a satisfactory conclusion. The settlement not only secures Nebraska's share of the basin water supply, it also avoids the prospect of paying as much as \$100 million to Kansas in monetary damages for past actions."

The case was filed in May 1998 when the State of Kansas filed a motion with the U.S. Supreme Court alleging that the State of Nebraska was violating the Republican River Compact. In January 1999, the Court granted Kansas' motion. In November 1999, the U.S. Supreme Court appointed Vincent L. McKusick as the Special Master to hear the case. In May 2001, after a number of initial legal arguments and rulings, the Special Master agreed to postpone the progression of the case in order to allow the three Compact States, Nebraska, Kansas and Colorado, to engage in settlement negotiations. These negotiations culminated in a settlement package that was approved by the Governors and Attorneys General of all three states in December 2002.

Nebraska Attorney General Jon Bruning said, "This is a

great day for Nebraskans. The settlement of this case should serve as a model for the states in the current Missouri River lawsuits.”

The Republican River Compact allocates a certain portion of Republican River water to each state, and the states cannot use more than their respective allocation.

The settlement achieves several objectives from Nebraska's perspective. First, the agreement provides that all claims for damages are waived. Second, the agreement provides Nebraska the flexibility to use its allocation anywhere in the state in normal years and anywhere upstream of Guide Rock in dry years. Additionally, the agreement allows all states to measure Compact compliance by averaging allocations from year to year thereby allowing some ability to use water from wet year years during drier years.

Consistent with the Special Master's first decision, Nebraska has agreed to include consumptive use of ground water to the degree that it depletes stream flow. The settlement also includes a process designed to resolve future disputes short of returning to the Supreme Court. All parties have agreed to participate in a dispute resolution process prior to the filing of additional litigation.

"We're pleased this litigation has drawn to a close, and we look forward to working in partnership with Kansas and Colorado to implement the settlement," Gov. Johanns said.

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**JON BRUNING**  
ATTORNEY GENERAL

For Immediate Release:  
May 16, 2003

Contact: David Cookson  
(402) 471-2683

**Federal Court allows additional releases from Lake  
Sakakawea into Missouri River**

LINCOLN, NE - - Attorney General Jon Bruning announced this afternoon that a Federal Court in North Dakota has allowed the U.S. Army Corps of Engineers to release more water from Lake Sakakawea on the Missouri River in North Dakota. Attorney General Bruning believes that this move will reduce some of the threat to Nebraska's interests in the Missouri River. "We are pleased that the Court has recognized the needs of the downstream states and has at least taken a small step toward providing a balanced approach to the Corps operation of the Missouri River."

Last Tuesday, Bruning sent Assistant Attorney General David Cookson to North Dakota to argue that the Corps should be allowed to release water to meet downstream and endangered species needs. Cookson serves as the Section Chief for the Agriculture, Environmental and Natural Resources Section of the Attorney General's Office.

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**JON BRUNING**  
ATTORNEY GENERAL

Attorney General Bruning Files Suit Against Alyon

For Immediate Release:  
May 16, 2003

Contact: Jon Bruning  
(402) 471-3811

LINCOLN—Attorney General Bruning has announced that his office, in cooperation with the FTC and several other states, has filed a lawsuit against Alyon Technologies, Inc., its CEO Stephane Touboul and Alyon's collection agency, Telcollect, Inc.

The Complaint alleges that Alyon Technologies has been billing Nebraska consumers \$4.99 per minute for viewing "adult" websites when in fact, the consumers have never visited the websites in question. The Complaint further alleges that Alyon sent these consumers unsolicited e-mails or "pop-up" boxes while they were on-line. Regardless of whether the consumer hit the "close" button and deleted the "pop-up" or e-mail, a program would be embedded into the consumer's computer. Following that, each time the consumer signs onto the Internet, he or she will be billed \$4.99 per minute while on-line.

"Nebraska consumers can rest assured that we're working to protect them from companies that use predatory methods. These types of violations will not go unanswered and we will seek to bring those who violate the law to justice," said Bruning.

The program also appears to be self-executing in that simply deleting the program from the hard drive may not be sufficient. The Attorney General's Office encourages consumers who believe they may have come into contact with this program to contact their Internet service providers. For more information or to file a complaint, please contact the Consumer Protection Division of the Attorney General's office at 1-800-727-6432 or visit us online at [www.ago.state.ne.us](http://www.ago.state.ne.us).



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**JON BRUNING**  
ATTORNEY GENERAL

FOR IMMEDIATE RELEASE  
May 6, 2003, 2003

Contact: Holley Bolen  
(402) 471-3888

**ATTORNEY GENERAL BRUNING ANNOUNCES NEBRASKA WILL  
JOIN LATEST LAWSUIT AGAINST U. S. ARMY CORPS OF ENGINEERS  
OVER MISSOURI RIVER OPERATIONS**

LINCOLN--Nebraska Attorney General Jon Bruning announced today that his office has filed a motion to intervene in the latest lawsuit concerning the United States Army Corps of Engineers operation of the Missouri River system.

On April 29, 2003, North Dakota filed suit against the US Army Corps of Engineers over an alleged violation of North Dakota's "Clean Water Act." North Dakota asked for and received a temporary restraining order that prohibited planned releases from Lake Sakakawea. The restraining order went beyond North Dakota's borders, however, to also restrict releases from Lake Oahe in South Dakota. The effect of the restraining order could have serious negative impacts for Nebraska's interests along the Missouri River.

"We're prepared to take whatever steps are necessary to reach a balanced resolution of all the river needs," said Bruning. "I'll fight to protect Nebraska's interests and provide for a fair and equitable operation of the river."

The latest North Dakota lawsuit is one of eight currently pending that will likely determine the long term operations of the Missouri River.



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**JON BRUNING**  
ATTORNEY GENERAL

Attorney General Jon Bruning  
Guest Column: May 2, 2003  
Protecting Yourself from Internet Fraud  
Contact: Holley Bolen (402) 471-3888

Buying an airline ticket, reserving a hotel room or even buying a car is now just a click away. While shopping on the Internet may offer bargains and conveniences not found in a store, there are dangers. Internet Auctions accounted for 87% of the Internet fraud reported by the National Consumers League. Other common complaints involve general merchandise sales, internet access services, sales of computer equipment and software, work-at-home offers, advance-fee loans, magazine sales, travel offers and pyramid schemes.

There are several steps that you can take to protect yourself from internet fraud, including the following:

1. Use a secure browser. This software scrambles the purchase information you send over the Internet, ensuring a secure transaction.
2. Safeguard personal information. Many companies post privacy policies on their Websites. Check the policy before giving any information.
3. Shop with known companies. Anyone can set up shop on the Internet. Ask unfamiliar companies to send you a catalog or brochure. Also, check refund and return policies before placing an order.
4. Keep your password private. Avoid using a phone number, birth date or part of your Social Security number for a password.

-MORE-

5. Pay by credit or charge card. Paying by credit card will protect your transactions under the Fair Credit Billing Act. This law gives you the right to dispute charges under certain circumstances and temporarily withhold payment.
6. Keep copies of transaction records. Keep printed records of all transactions including purchase order and confirmation numbers.

The best way to protect yourself from all types of internet fraud is to keep your personal information private. For more information call the Consumer Protection Division of the Nebraska Attorney General's Office toll free at 1-800-727-6432 or visit [www.ago.state.ne.us](http://www.ago.state.ne.us).

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**JON BRUNING**  
ATTORNEY GENERAL

**Bruning Visits Grand Island to Speak on National  
Day of Prayer**  
**Presents Internet Safety Program to Westridge Middle School Students**

For Immediate Release:  
May 1, 2003

Contact: Jon Bruning  
(402) 440-9530

GRAND ISLAND – Today, Attorney General Jon Bruning spoke to Grand Island residents about the importance of prayer. His speech addressed the timeliness of the Day of Prayer in our country and his use of prayer as a public official.

“Today is an incredible day of unity and a day to remind us of the important role that prayer plays in our lives,” Bruning said.

Bruning also presented Westridge Middle School students with a program on Internet safety. The program outlined ways that predators track young victims as well as information on how to protect against online predators.

“It’s important to be aware of what you’re disclosing when you’re online. What may seem to be an insignificant piece of information can be used to find out a lot about a person,” said Bruning.

Bruning cautioned young people against giving out personal information such as names, addresses, or phone numbers online. “Unfortunately, there are a lot of dangerous criminals out there that use the Internet as a tool to find their next victim,” said Bruning. “You may think you’re talking to a peer when in reality he or she may be a middle-aged, convicted sex offender.”

For more information on how to protect yourself against Internet predators visit the Attorney General’s website at [www.ago.state.ne.us](http://www.ago.state.ne.us).