

Western States Engineers 2005 Spring Workshop



Susan France, Water Administration Division

Nebraska Department of Natural Resources

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18 942 18.442 LEGISLATURE OF HERBASEA NUMPER-RECORDS LEGISLATURE SECOND SESSION LEGISLATIVE BILL 962 PTHAL PRADTIC Introduced by Matural Resources Committee: Echnock. 31. Chairperson: Friend. 10; Jones, 43; Explored. 31. Chairperson: Friend. 20; Binkr. 24, and Explored. 32, and 34, and 34, and 34, and 34, and Broom, 61; Burling; 33; Coumbs, 22; Cothaber, 34; Erröman, 47; Jones, 120; Oanhes, 21; Echimek, 42; Evräman, 47; Jones, 120; Anikes, 21; Echimek, 27; Evräman, 27; Markeis, 2 Read first time January 9, 2004 Committee: Natural Resources A BILL FOR AN ACT relating to natural resources; to amend sections 2-1586, 2-3325, 46-229.02, 46-229.03, 46-2.127, 46-609, 46-651 46-656.03, 46-658.04, 46-656.08, 46-656.11, 46-656.13, 46-656.21. 46-656.32. 48-656.35 to 48-656.37. 46-656.39 45-656.41 to 46-656.40. 46-656.64. 46-680. 48-1207.01 46-1207.02, 46-1212, 46-1228, 61-206, 66-1501, 66-1519, 66-1523, 66-1525, 66-1529.02, 77-27,137.02, and 77-3442, Reissue Revised Statutes of Nebraska, sections 2-1588.

Beisman Revised Statutuse of Nebrash, sections 3-1586,
 11-520, 46-22,00, 46-22,3 46, 22-29,84, 46-20, 46-22,10, 46-22,10,
 46-217, 46-261, 46-29 to 46-296, 46-2,112, 46-2,113,
 46-2,122, 46-2,135, 46-40,162, 46-46,122, 46-46,132,
 46-450,05, 46-4651,14, 46-451, 14, 46-455, 14, 46-465, 26, 46-4651,

LB 962 was signed by Governor Johanns April 15, 2004



Membership of Task Force

49 Members Appointed by the Governor

20 Irrigators

- **5 NRD Representatives**
- **3 Ag Organization Representatives**
- **4** Power Representatives
- **5** Municipal Representatives
- **2** Recreation Representatives
- **3** Environmental Representatives
- 3 At Large

Senator Schrock and Senator Stuhr Department of Natural Resources Attorney General's Office The Recommendations of the Task Force were the Result of Consensus Based Decision Making Process

 Consensus means the benefits of the package were such that they outweighed those items that were not to a members liking

Task Force Recommendations Adopted in LB 962



- Maintain the prior appropriation system for surface water



- Maintain correlative rights system for groundwater

Task Force Recommendations Adopted in LB 962

-NRDs are first choice for groundwater regulation

-DNR first choice for surface water regulation

- Need mechanism for early action-proactive approach

- Money is needed Data and tools Voluntary Incentive Programs



LB 962 Proactive Approach

 DNR is to make annual determination starting by January 1, 2006 of which basins are fully-appropriated

Consider both surface
 water and hydrologically
 connected groundwater

LB 962 Proactive Approach



If basin is fully-appropriated there are immediate stays on:

- New water well
- construction
- Increases in the number of acres irrigated
- New surface water permits

Must Develop an Integrated Management Plan



Developed Jointly by NRD and DNR



Consultation with municipalities and others required

Must be implemented within 3-5 years

A Required Goal of an IMP is to:



Maintain the balance between basin supplies and uses.....

to sustain the economic viability and environmental and social health, safety and welfare of the basin.....

for both the near and long term.

Transition Process Fully Appropriated Basins



Certain Areas Considered Overappropriated



Water use exceeds sustainable supply

Over Appropriated Basins (*Platte River Above Elm Creek*)

Designation by September 15, 2004



Over & Fully Appropriated Basins



Over Appropriated Basins



- Determine difference between current and fully appropriated level of development

- 1st increment goal - address impacts to surface water rights of stream flow depletions caused by water uses begun after July 1, 1997

In Overappropriated Area



No New Depletions Plan

New uses must be offset if adversely impact flow for surface water rights or ESA target flows

If Fully or Overappropriated



No increase in consumptive use

Future development can occur only if can transfer current use of water to a new use

Transfers must pass the no injury test

Many Types of Transfers Being Considered

Transfer of location of use

move water itself to new location
move right to use or allocation of water to new location

Transfer type of use – e.g. agricultural to municipal

Transfer type of diversion – e.g. surface water to ground water

Projects To Transfer Surface Water To Ground Water

Current project - surface water diverted by irrigation district under existing priority date for direct use during irrigation season

New project – surface water diverted for intentional ground water recharge using existing priority date

Projects To Transfer Surface Water To Ground Water

(continued)



Could divert water for recharge during nonirrigation season

Use wells to withdraw water when needed for irrigation

Projects To Transfer Surface Water To Ground Water

(continued)

Must meet no injury test

Other requirements

Future Integrated Management Plans

Must achieve goal of sustainability for both surface water and hydrologically connected ground water

If economic development is to be sustained must allow transfers

Must be creative

Must be flexible





Thank You