

## **DNR EVOLVING INTO AUTOCRACY**

Some thirty years ago, a wise and well-balanced Nebraska Unicameral set up our unique underground water management system based on local as opposed to state control of groundwater irrigation with the enactment of the Groundwater Management and Protection Act, and the creation of natural resources districts (NRDs).

Our lawmakers back then knew that locally elected and accountable NRD directors were the key to responsibly managing groundwater use in our state in which 85 % of all irrigated acres are irrigated by groundwater.

Thanks to this form of local regulation and the resourcefulness, expertise, and hard work of Nebraska's top independent businessmen, i.e., farmers and ranchers, our state flourished and evolved into a world-class powerhouse producer. This achievement could not have become reality without groundwater irrigation and the wise management of its use by our local NRDs. Schematically, this is how simple our groundwater regulatory system was during the period 1975 - 1995:

### *SEE CHART A*

In 1995 the Nebraska Unicameral passed highly controversial water legislation in LB 108 which was and is known as the "conjunctive use" water bill. Nebraskans First and the Nebraska Farmers Union fought hard to stop LB 108 from becoming law. Most rural senators opposed LB 108, but the Omaha and Lincoln majority prevailed. Basically, LB 108 tied surface water and groundwater together. It provided a means for the state Department of Natural Resources (DNR) and local NRDs to develop integrated management plans to regulate groundwater hydrologically connected to surface water. But what LB 108 did most immediately after it became law was to give Kansas the green light to sue us under the Republican River Compact. LB 108 also invited the US Fish and Wildlife Service into the Platte River valley where they could set up shop using the Endangered Species Act as their weapon to seek ultimate control of Platte River flows for alleged species and habitat needs. This program was misleadingly labeled the Cooperative Agreement. In truth, it was all about coercion, not cooperation. Under LB 108, our water regulatory schematic blew up into this:

### *SEE CHART B*

Ten years later, in 2005, the Legislature passed another controversial water regulation measure in LB 962. This bill was developed by a governor-appointed group called the Water Policy Task Force. LB 962 significantly weakened local control over groundwater by NRDs, and greatly

increased state control by the DNR. LB 962 gave the DNR the power to declare a basin or sub-basin in the state to be fully or over-appropriated. Once such designation is made by DNR, a stay is immediately imposed on the development of new wells. LB 962, which Nebraskans First strongly opposed, was an assault on local control and the private property rights of Nebraska farmers and ranchers. Subsequently, the DNR adopted rules that made LB 962 even worse. Today, this is how our water regulation system looks:

### *SEE CHART C*

The question is begged: Why in the world would our own state government want to create such a complicated, confusing and counterproductive scheme for managing groundwater?

It is painfully apparent that whenever the legislature and DNR take it upon themselves to make changes to our water laws, the system—once simple, effective and efficient—gets more and more convoluted, intrusive and stifling to production, growth and economic development.

## **QUOTABLE QUOTES**

*"True conservation of water is not the prevention of its use. Every drop of water that runs into the sea without yielding its full commercial returns to the nation is an economic waste."*

President Herbert Hoover

*"Water symbolizes such values as opportunity, security and self-determination. Strong communities are able to hold onto their water and put it to work. Communities that lose control over water probably will fail in trying to control much else of importanct."*

Prof. H. Ingram

*"Food is a weapon...one of the principal tools in our negotiating kit."*

Earl Butz