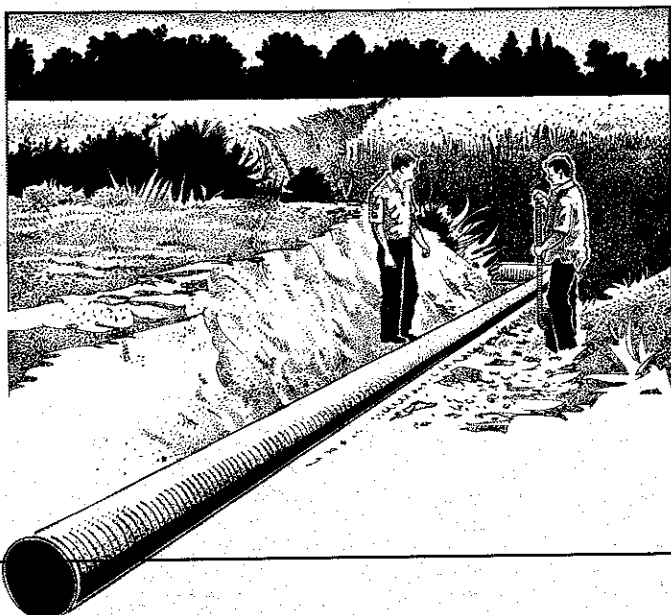


IRRIGATION RELATED BILLS HEARD BEFORE THE NRC

LB 800 (Hearing on February 6, 2008.) Would change provisions in current law relating to intentional underground water storage permits. Specifically, LB 800 would remove the date of August 26, 1983 as the cutoff for irrigation districts to obtain a permit for intentional underground water storage and thereby have the authority to charge groundwater irrigators in the project for water pumped.

Nebraskans First Executive Director Don Adams asked the NRC not to advance LB 800 out of committee unless a clarifying amendment was added to the bill that would ensure that irrigation districts cannot go back and use LB 800 authority as a back door to charge fees for groundwater withdrawals that were deemed as incidental underground water storage prior to 1983. LB 800 should require review and approval of the natural resources district with jurisdiction to ensure such unintended consequences do not occur.

LB 801 (Hearing on February 6, 2008.) This bill involves the issue of "commingled acres," that is, acres in a fully or over appropriated river basin that are irrigated by both surface water and groundwater. Natural resources districts (NRDs) in such river basins are required to develop integrated management plans (IMPs) in collaboration with the Department of Natural Resources (DNR) with the goal of sustainability. LB 801 would require any IMP involving commingled acres to "prevent or offset any increased depletion to the stream resulting from the removal of a surface water appropriation (either through adjudication, voluntary relinquishment or transfer) when the land continues to be served by a groundwater well."



Nebraskans First Executive Director Don Adams testified in opposition to LB 801 as follows: "Surface water rights and groundwater rights are distinct, separate water rights. Surface water rights or appropriations are controlled by the DNR and are based on a first in time, first in right rule. Groundwater rights on the other hand are governed by NRDs and based on the correlative rights doctrine of share and share alike. Both surface water and groundwater rights involve a significant investment by an irrigator. What we see happening under LB 962 (2004) and now LB 801 is a blurring of the distinction of these two water rights. LB 801, unfairly and without compensation, penalizes groundwater irrigators in fully or over appropriated areas who also irrigate with surface water. We perceive this disparate treatment of groundwater irrigators who also irrigate with surface water to violate the correlative rights doctrine."

Amendment 1629 to LB 801 (Hearing on February 6, 2008.) This amendment to LB 801 offered up by Chairman of the NRC Senator Loudon drew strong opposition for obvious reasons. AM 1629 would have required water use "measuring devices" (meters, most likely) on all irrigation water wells statewide by June 30, 2012. Amendment 1629 came out of the blue.

Joining Nebraskans First in strong opposition to this statewide metering mandate were NRDs from the Platte, Elkhorn, Little Blue and Big Blue basins. Nebraskans First Executive Director Don Adams testified that, "AM 1629 represents a direct assault by Lincoln on local control of groundwater by our NRDs, which are still trying to get a handle on the massive burden placed on them with LB 962 back in 2004." Adams concluded his testimony by ensuring the NRC senators that, "if AM 1629 is adopted, such a state mandate coming out of Lincoln will surely cause tension, angst and ill will to rise in the country."

LB 924 (Hearing on February 7, 2008.) This bill contained various different and unrelated provisions that drew four hours of testimony. Much of LB 924 had to do with NRD's programs, controls, processes, quantification and documentation involving offsets to streamflows caused by new uses. Such offsets involve the concept of water banking by NRDs as a means to comply with the requirements of LB 962 (2004) that in fully or over

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