

LB 962 UPDATE

- LB 962 was developed by the Water Policy Task Force and became law in 2004.
- Without question, LB 962 significantly changed long-standing water policy in Nebraska which for over thirty years had natural resources districts (NRDs) as the sole regulators of groundwater pumping.
- LB 962 allows the state Department of Natural Resources (DNR) to declare a basin or sub-basin as being over- or fully-appropriated. Once such designation is made by the DNR, a "stay" is immediately imposed on the drilling of new wells and the addition of new irrigated acres.
- Irrigators in over-appropriated basins will have to be regulated in a manner that will, over time, reduce consumptive use in the basin down to where the basin reaches "fully-appropriated" status.
- In "fully-appropriated" basins no new irrigation expansion will be permitted without countervailing offsets.
- In over- and fully-appropriated basins, NRDs and the DNR must develop integrated management plans (IMPs) which will, over time, result in sustaining a balance between water uses and water supplies. The DNR must approve the IMP involving groundwater use developed by the NRD.
- Simply put, LB 962 is about halting new groundwater irrigation development and imposing new restrictions on existing groundwater irrigators in over-appropriated basins.
- In its first annual report required by LB 962, the DNR did not designate the Loup, Elkhorn or Platte river basins below its confluence with the Loup River as fully or over-appropriated. This is good news, but remember the DNR will reassess every basin annually. We believe the DNR's bias is toward closing down as much of the state as possible to any new development.
- Undoubtedly, those NRDs which have not yet been hit with a fully or over-appropriated designation are nervous and uncertain about what lies ahead when the 2007 DNR report comes out. This tension will likely cause some NRDs to voluntarily impose moratoriums on new wells before the DNR forces them to.
- Some NRDs probably believe this approach is better than being dragged into the complicated process of developing an integrated management plan which is required if the DNR declares the NRD as fully- or over-appropriated.
- Groundwater irrigators need to make sure that their existing wells are properly registered with the NRD and also that the acres they irrigate are certified as such with their NRD and county assessor.
- In NRDs where no moratorium suspension or stay on new wells has been imposed, irrigators may still construct new wells after acquiring a permit from their NRD. Irrigators or potential irrigators owning land upon which they have planned to install a well sometime in the future should probably seriously consider getting the well put in at the earliest opportunity, because the future for expanded irrigation in Nebraska is uncertain at best.

