

# NEBRASKANS FIRST

Protecting Nebraska's Groundwater for Agriculture



## Statement of Nebraskans First Executive Director Don Adams Before the Lower Republican NRD in Alma on July 16, 2004

Thirty some years ago the Nebraska legislature gave the authority and tools to regulate groundwater use to local NRDs. At that time, the legislature had strong agricultural representation and leadership. They knew the importance of groundwater irrigation and also knew that its regulation must not be controlled at the state level. They were awfully smart folks who crafted that groundwater management law back in the early 1970's.

For twenty years that groundwater management law served our state well and put Nebraska at the head of the class among all states on how to manage groundwater. But, in 1995, the legislature passed LB 108, the so-called "Conjunctive Use" law. LB 108 handed Kansas their lawsuit against us on a silver platter and openly invited the US Fish and Wildlife Service into the Platte.

Then came LB 962 out of the Water Policy Task Force last year. The Water Policy Task Force set out to put a choke hold on groundwater irrigation. We knew, and said from the outset, that the end product of the task force would involve weakening local control over groundwater restricting the rights and freedoms of groundwater irrigators. LB 962 does both.

LB 962 was touted as being pro-active. But, in fact, it is reactive to the four years of severe drought. LB 962 gives the state DNR tremendous new regulatory power over groundwater use. LB 962 is fundamentally about stopping new development and imposing greater restrictions on existing groundwater irrigation. LB 962 uses the term "appropriation", which is a surface water legal term, and applies it to groundwater use. This sleight of hand weakens NRD authority over groundwater, shifts ultimate power and control to the state, and destroys the correlative rights doctrine.

It is sad, but true, that Nebraska lawmakers and state bureaucrats have succeeded in creating a real mixed up mess. Nebraska was historically a place of hard work and cooperation. Today, Nebraska is a place of big, nasty arguments and fighting between and among almost every imaginable water user.

- SW irrigators v. GW irrigators
- Alluvial v. Upland
- Municipal v. Rural
- Agriculture v. Industry
- NRD v. NRD
- NRD v. State
- Irrigators v. USFWS
- Recreation v. Irrigators

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Our water laws are now so complicated and convoluted that the average person has no chance to understand them. LB 962 is one of the most disjointed, confusing laws I have ever seen. Lawyers are being hired left and right by irrigators fearful of what their own elected officials are up to. Unfortunately, Nebraskans First and the Well Drillers Association were the only organizations opposing LB 962 last legislative session. Had we had some allies, maybe we could have stopped it. But, unfortunately, it is now law.

We want to commend this board for acting responsibly and wisely on behalf of your constituents and local communities which were born and now can only survive thanks to the infusion into your economy of dollars generated by groundwater irrigation.

We know you are under tremendous pressure from the state to go along in order to get along. You are doing the right thing by demanding important information from the state before you finalize your part of an integrated management plan. The state's mysterious "black-box" groundwater model must be analyzed and peer reviewed. Certainly, an independent, credible and comprehensive economic impact study must absolutely be accomplished, assessed, and factored into the mix.

Whatever plan you finally agree upon must be one that gives your irrigators the best possible chance to operate and survive, because if they can't live with it and continue to produce, the economy down here will go into a death spiral, the tax base will wither, and your communities, schools and everything else involved with your quality of life will suffer.

This board is displaying true local control, genuine stewardship, and active rather than passive management of the most valuable natural resource there is. Your diligence and stiff backbone are strongly supported and appreciated.



Don Adams  
Executive Director  
NEBRASKANS FIRST