


Current Water Issues In Nebraska

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In the West, Whiskey's fer
Drinkin' and Water's fer
fighten fer.
"Mark Twain"

Factors Driving Nebraska Water Issues

- Republican River Compact
- Platte River Cooperative Agreement
- Increased Demand for Water
 - Industry
 - Agriculture
 - Recreation
- Impacts of Long Term Drought

Nebraska is not Alone

Georgia, Alabama and Florida have been fighting over water since the 1970s, and litigation has been pending for fifteen years. An attempt to settle these disputes through an interstate "compact" recently failed after ten years of negotiation, and we are now back in the courts.

New Mexico State Engineer John D'Antonio predicts there will be "umpteen" interstate water lawsuits in the western states, in addition to Texas v. New Mexico in the Pecos River Basin and Kansas v. Nebraska in the Republican Basin.

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How did we get here in the first place?

CONFLICT BETWEEN SURFACE AND GROUND WATER?

- SURFACE AND GROUND WATER HAVE HISTORICALLY BEEN MANAGED BY TWO DISTINCT SYSTEMS

WATER LAW

- THE INTERSECTION OF LAW AND POLITICS

Ground Water Regulated by NRD's

THE "AMERICAN RULE"

The owner of land is entitled to appropriate subterranean waters found under his or her land, but cannot extract and appropriate them in excess of a reasonable and beneficial use upon the land which (s)he owns, especially if such use is injurious to others who have substantial rights to the waters. (case of Olson v. City of Wahoo in 1933)

"NEBRASKA'S TWIST"

If the natural underground supply is insufficient for all owners, each is entitled to a reasonable proportion of the whole - otherwise known as the "California Rule" or modified doctrine of correlative rights based upon users sharing alike in times of shortage.

SURFACE WATER Regulated by the State (DNR)

FIRST IN TIME - FIRST IN RIGHT

HAVE SENIOR AND JUNIOR WATER RIGHTS

HAVE PRIORITY OF APPROPRIATION - Closing
of junior rights in date order until senior is
filled.


LB 108

In 1996 Nebraska Legislature enacted LB 108
LB 108 legally recognized for the first time
"Hydrologically connected ground and surface
water".

LB 108 calls for the integration of this class of
water into the Nebraska Ground Water
Management and Protection Act for
management purposes by the Department of
Natural Resources.

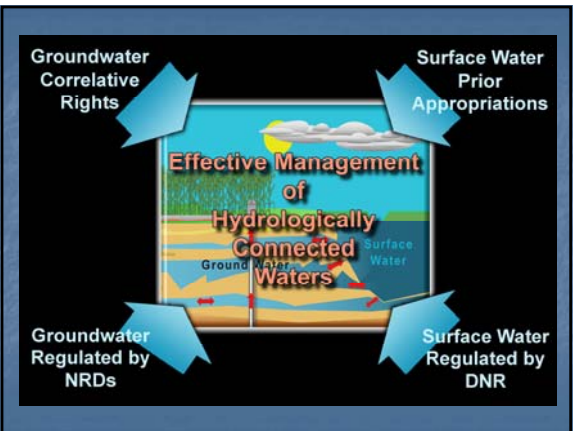
Lb 962

- Signed April 15, 2004
- Affected NRD's that were in the "joint action" planning
process with DNR on July 14, 2004
- Objective was to avoid "starting over"
- Requires DNR to annually report on the status of water
supplies in the basins in Nebraska and make
determination if Fully Appropriated or Over Appropriated



LB 962
Proactive Approach
Rest of the State

- DNR is to make annual determination starting by January 1, 2006 of which basins are fully appropriated
- Consider both surface water and hydrologically connected ground water



Task Force Recommendations
Adopted in LB 962



- Maintain the prior appropriation system for surface water
- Maintain correlative rights system for ground water

Fully Appropriated Basin

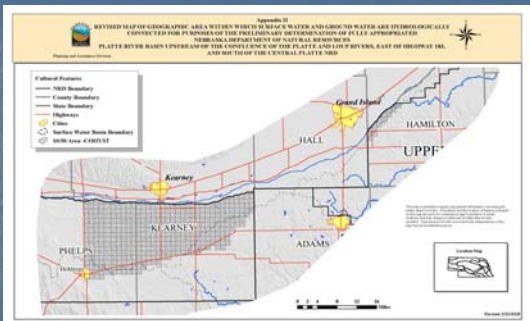
Water use is equal to but does not exceed water supply

Any use will deplete supply available for existing users

Criteria to Determine Extent of Hydrologically Connected Areas to the Overappropriated Basin

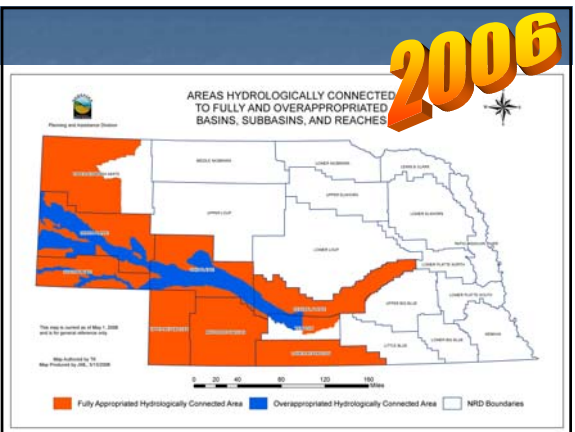
-Previous NRD actions to designate Integrated Management Areas

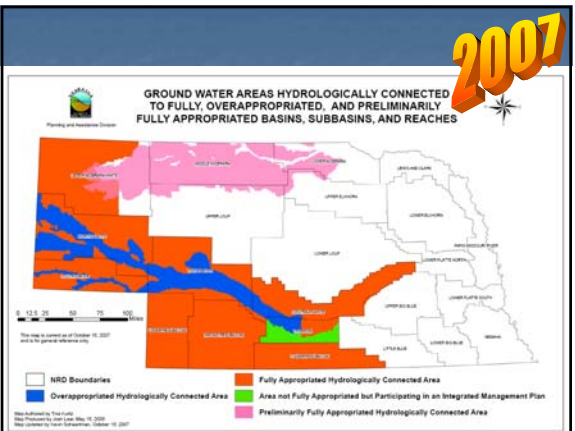
-Locations where 28% or more of what is pumped over 40 years would show up as a depletion to the stream (based on data produced by COHYST model)

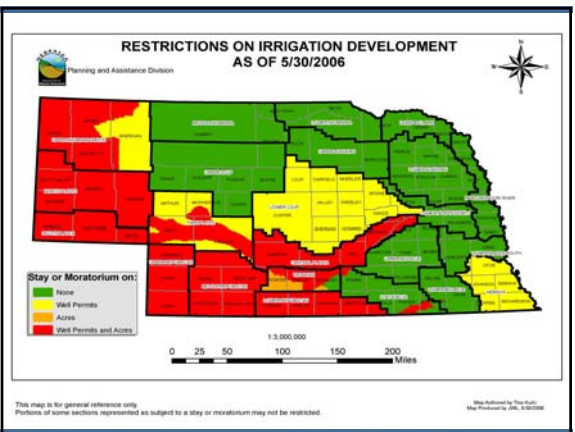


2007 Insurance Workshop

"Policy and Structural Changes Affecting Agricultural Risk "







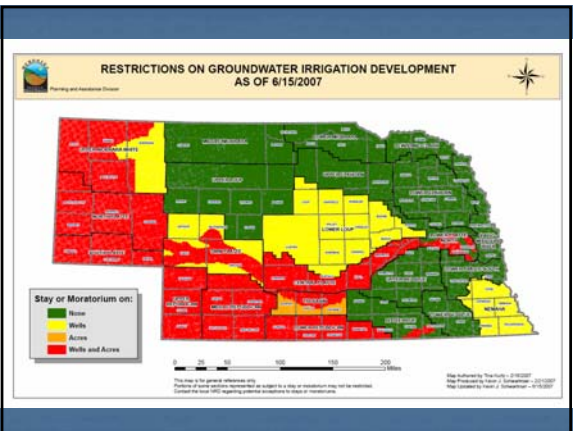
2007 Insurance Workshop

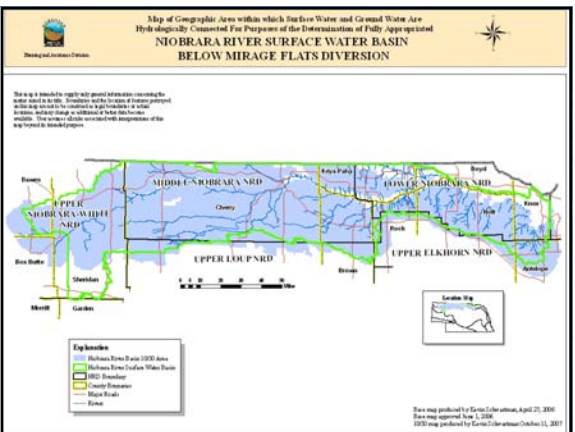
"Policy and Structural Changes Affecting Agricultural Risk "

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
ORDER FOR TEMPORARY STAY ON SURFACE WATER
APPROPRIATIONS IN CERTAIN AREAS OF
THE LOWER PLATTE NORTH NATURAL RESOURCES
DISTRICT

On May 14, 2007, the Lower Platte North Natural Resources District (LPNNRD) pursuant to Neb. Rev. Stat. §46-707(2) placed an immediate temporary stay for 180 days on the construction of any new water well and on any increase in the number of acres historically irrigated. The temporary stay applies to the area delineated on the map that is attached to this Order. (This area is hereinafter referred to as the "Uplands Area.")

By letter dated May 15, 2007, the LPNNRD requested the Department of Natural Resources to place an immediate temporary stay on the issuance of any new surface water diversion permits which result in the consumptive use of surface water in the Uplands Area excluding de minimus uses such as farm ponds and other conservation practices.





2007 Insurance Workshop

"Policy and Structural Changes Affecting Agricultural Risk "

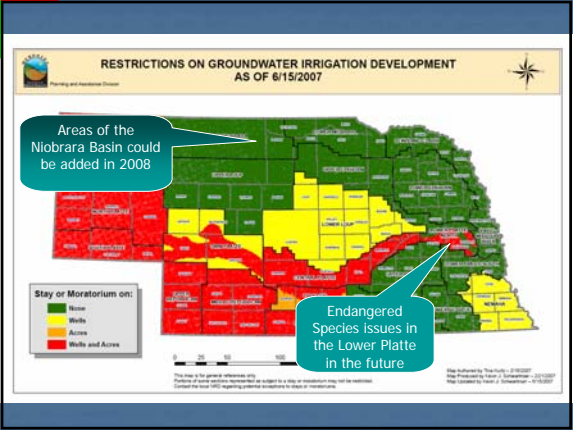
State bans new irrigation along Niobrara
By ART HOVEY / Lincoln Journal Star
 Tuesday, Oct 16, 2007 - 08:57:42 pm CDT

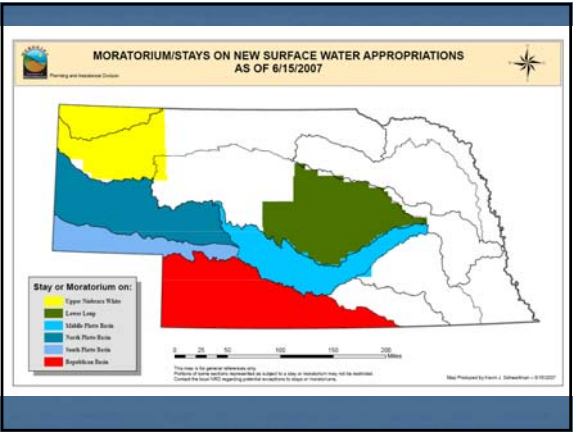
- Its numbers are few and its specific whereabouts in the twists and turns of the Lower Platte River are mostly a mystery on any given day.

But an endangered fish called the pallid sturgeon could make a big splash in water policy circles in Nebraska over the next 90 days.

That's how long the state's natural resources director has to gather facts for a final determination on whether the lower reaches of the river must be placed off limits to more irrigation development to protect the fish's habitat.

- Ann Bleed's preliminary decision Tuesday was to keep the Platte downstream from Columbus open to more development. As many water watchers seemed to expect, she did move some 250 miles of the Niobrara River into fully appropriated status in her annual review of river basins.





FROM THE UPPER BIG BLUE NRD JULY 2006 NEWSLETTER

Upper Big Blue Natural Resources District PUBLIC WARNING

All ground water users in the Upper Big Blue Natural Resources District are hereby notified that the Spring 2006 District Average Ground Water Level is 0.52 feet below the "Reporting Trigger". All ground water users must report information related to their ground water uses by March 1, 2007. Annual ground water withdrawal reports will be required, with the first report due to the District by December 1, 2007. If the District Average Ground Water Level falls more than 2.48 feet below the Spring 2006 District Average Ground Water Level, then allocation of ground water will begin. The District Average Ground Water Level is determined each spring by measuring the static ground water level in over 500 wells across the NRD.

LOWER LOUP NRD TEMPORARY STAY ON NEW SURFACE WATER APPROPRIATIONS ISSUED 8-21-2006

NOTICE TO THE PUBLIC OF TEMPORARY STAY ON NEW APPROPRIATIONS FOR NATURAL FLOW SURFACE WATER

At the request of the Lower Loup Natural Resources District in accordance with Section 46-712(6) of the Nebraska Revised Statutes, the Director of the Nebraska Department of Natural Resources has placed a **temporary stay on the issuance of any new appropriation permits for natural flow surface water within the boundaries of the Lower Loup Natural Resources District**. The temporary stay takes effect on September 15, 2006 and expires on January 1, 2008. **No new surface water appropriations for natural flow will be issued after the stay takes effect unless a variance is received from the Director for good cause shown or the appropriation falls within one of the exceptions to the stay**. The full text of the Order of Temporary Stay and the exceptions to the stay are available to the public on the Department's website www.dnr.ne.gov and at the Department's main office in Lincoln at 301 Centennial Mall South, Fourth Floor or at the Department's field office in Ord on North Highway 11.

- [PRESSRELEASE_LLNRDstay.pdf](#)

Governor signs water bill into law May 2007 *U.S. Water News Online* LB 701

- LINCOLN, Neb. -- Governor Dave Heineman has signed into law a multimillion-dollar plan to shield the state from penalties for not sending Kansas water it is owed from the Republican River.
- Senators passed the bill last week with an emergency clause that makes it take effect immediately.
- The plan relies heavily on taxes and fees and was described as a painful but necessary antidote for water shortages in the Republican basin.
- The compact governs the amount of Republican River water that can be used by the three states. Nebraska gets 49 percent, Kansas gets 40 percent and Colorado gets 11 percent
- Whether Nebraska has overused its allocation during the past five years will be determined in August.
- Nebraska will likely be found not in compliance, which could make the state liable for damages to Kans

USDA Programs

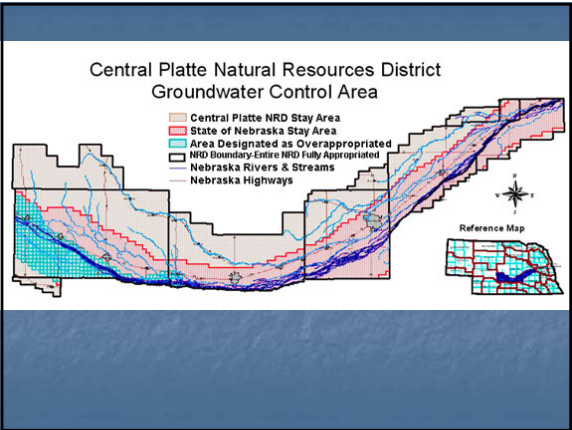
- EQIP – Environmental Quality Incentive Program
 - Cost share and incentives to convert to a more efficient method of irrigation.
 - Cost share to convert from irrigation to another land use
- CRP – Conservation Reserve Program
 - Conversion from cropland to grassland

A new EQIP opportunity is available for farmers in the Central Platte NRD

CPNRD Website

To help offset depletions to the Platte River, an incentive payment will be available through EQIP for converting irrigated land to non-irrigated land on a permanent basis. The area eligible for the EQIP incentive payment lies in the over-appropriated area *from Elm Creek west into Dawson County* (see map in insert). The total payment rate is based on the difference between the irrigated and non-irrigated land value multiplied by a resource impact factor. The EQIP portion of the payment is \$200/acre/year X 3 years, for a total of \$600 per acre per EQIP contract.

This incentive payment will be used in conjunction with the CPNRD Water Banking Program where the NRD would hold a permanent easement on the land converted to dryland. The intent is to combine NRD funds with EQIP dollars to make this opportunity available to more producers, which will help to restore the depleted watershed.



Factors Influencing Water Use In Nebraska

- Ethanol Industry (water to grow corn and to process into ethanol)
- Long Term Drought
- Endangered Species Issues
- Platte River Cooperative Agreement
- Republican River Compact

FUTURE IMPACTS OF CHANGING WATER MANAGEMENT

- REDUCED WATER ALLOCATIONS IN SOME AREAS
- WATER "BANKING"
- IRRIGATION "RETIREMENT" PROGRAMS
- IMPLICATIONS OF "CONSUMPTIVE USE" VS TOTAL PUMPING (WHAT IS CONSUMPTIVE USE AND WHAT PRACTICES DOES IS APPLY TO.

FUTURE WATER MANAGEMENT

- CONTINUE TO CHANGE
- MAY BE DEFINED BY THE STATE OR THE COURTS
- Could see alternate crops – altered crops – lower water use crops – different crop rotation
- Improved irrigation technology

Surviving With Changing Water Policies

- Keep up with the water policies in your NRD.
- Be flexible and open minded.
- Plan for the "long term".
- Take care of your soil.

FUTURE WATER MANAGEMENT



Information Resources

- Nebraska Department of Natural Resources - <http://www.dnr.ne.gov/>
- Nebraska Association of Resource Districts - <http://www.nrdnet.org/>
- UNL Conservation and Survey Division <http://snr.unl.edu/Data/NebrGIS.asp>
- Nebraska USDA Natural Resources Conservation Service <http://www.ne.nrcs.usda.gov/>
- USDA Farm Service Agency <http://www.fsa.usda.gov>
