

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 135

just wanted to speak momentarily in support of this particular bill. I'm delighted that Senator Schrock has brought it forward. It's absolutely essential, in my opinion, that we proceed with this piece of legislation because this is the piece of legislation that will be key in the resolution of the Kansas-Nebraska lawsuit and the dispute over the water in the Republican River Valley. This legislation allows an NRD to take the measures that are described in the bill not only for reasons of groundwater depletion or contamination but also for surface water depletions, and that particular provision allows it to be operative in the Republican River controversy. So...and I might note also how the boundaries on conjunctive use are starting to break down now, apparently with less controversy than ten years ago when it was...seemed a matter of life and death to people that we did not look at things in terms of conjunctive use. Now we have a conjunctive use bill that nobody seems to question anymore, and that's progress and that's good. But I might say to you this...the immediacy of the situation is clear. The Attorney General, for a number of years, tried to impress upon us that groundwater was not going to be touched or affected by the lawsuit with Kansas and now we know quite clearly, from the rulings of the master, that, in fact, groundwater will be included and there will be a decision by the federal court adverse to our position on whether groundwater should be included in the decision. That little bit of reality, I don't know if it's struck home yet in the Republican Valley, it should have been acknowledged many, many years ago because, in my opinion, the law was clear in analogous cases in Colorado and in New Mexico. Be that as it may, the time is coming shortly when one of two things will happen, or maybe both. The first thing that will happen is that groundwater use in the alluvial plain in the Republican River will have to be curtailed, and it's too bad we didn't negotiate it instead of having it forced down our throats by the federal courts here shortly. The second thing that may happen is that there may be some claim for back damages against the state of Nebraska for not having done this sooner, and that's why a number of years ago I suggested that what we should have done was not expand any further any use of groundwater on the alluvial plain until we knew whether there would be back damages claimed and paid for water used by Nebraska that, arguably, we should not have used. But I guess