

January 20, 1982

LB 375

amendment and send the bill on its way in a more reasonable fashion, in a fashion that is reasonable the way it exists right now. Thank you.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: I have a couple of questions of Senator Hoagland.

SENATOR CLARK: Senator Hoagland.

SENATOR WARNER: Senator Hoagland, my first question, I assume, and I am not arguing about drafting now, understand, but I assume that your amendment would apply to any federal or state court?

SENATOR HOAGLAND: Yes, Senator Warner, but it is limited that the suit has to be one challenging the adequacy of a ground water management plan.

SENATOR WARNER: Is it conceivable it could be in a federal court, would you think?

SENATOR HOAGLAND: Well, boy, you would have to ask Senator Schmit and Senator Kremer that, whether they anticipate the adequacy of ground water management plans being litigated in federal court? I would think probably not but conceivably if these can be litigated in federal courts as well, Senator Warner, you are opening up a whole new area of tying the NRDs up in litigation.

SENATOR WARNER: My assumption was that at least the state is getting assessed, you know, for attorney fees in some instances at least where it is federal court which is federally mandated. Senator Hoagland, I was wondering if your amendment ran contradictory to what the federal law or the federal courts, at least, now require?

SENATOR HOAGLAND: Two real quick points, those are suits pursuant to the federal civil rights act which specifically grants an award of attorney fees. Secondly, we don't have the authority in this body to say federal courts can or cannot grant attorney fees.

SENATOR WARNER: Well, that I understood and that is why I was wondering if we were forcing all suits into the federal court as opposed to state court indirectly because the odds of being reimbursed was there but maybe they would never be tried there is what you're suggesting.