

April 8, 1982

LB 726

misconceptions. This bill doesn't prevent drainage in any way, period. Secondly, this bill does not allow a neighbor to stop the installation of an irrigation well in his nextdoor neighbor's yard, period. Thirdly, it does not set up subirrigation as a preferential use, period. Now let's talk a little bit about how the process works. First of all it is the NRD who acts, no individual, no group of individuals except the elected NRD officials, and the first thing they have to do is to decide among themselves and on behalf of their people whether they want to enter a conflict situation, whether they want to get involved. They can choose not to get involved. They can choose to let all the subirrigation in their district disappear overnight if that is what they want to do. But if that is not what they want to do, if they want to enter into the negotiating process and try to balance the interest of the parties involved, then they ask the Director of Water Resources to establish a control area and when they do that, the Director of Water Resources just doesn't establish one just like that, they have to prove some things. First of all they are going to have to prove...they are going to have to prove the burden is on them to prove that the irrigation well is hurting the subirrigation. Now you have heard a lot of talk about we don't have enough data, we can't prove this, well, fine, if we can't prove it, then the NRD directors can't prove it, then there will never be a control area and you will never have to worry about a thing. But those of us who have sat in on Public Works Committee hearings, we know different. We know that in some cases they will be able to prove it. Secondly, they not only have to prove the causation, what is causing the loss of the subirrigation but they have to prove that overall there is an economic hardship to the people in the area, and that is the second decision they have to make and a second burden of proof that they have. And not only do they have the assurance that they have to prove this...not only do they have to prove it to the Director of Water Resources but if somebody wants to take it to the courts, it can go straight to the courts. Now what has the history of Nebraska been on control areas? Have NRDs acted irresponsibly? Do they tend to jump into situations and instigate this kind of regulation and that kind of installation? This kind of regulation? The emphatic answer is, no. We only have three control areas in this whole state and in each one of those control areas we waited so long to establish the control area that we have a bad, badly...a bad managed decline situation in all three. We are running out of water rapidly in all three and despite that in the Big Blue area where they have some of the severest problems they have not even instigated, as I understand it, Senator Kremer, water allocations or water metering. It is a control

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