

we have no such mechanism so we don't...we can't deal with the situation before a lawsuit's filed and we can't deal with the situation after the lawsuit's filed.

SENATOR STUHR: Okay. Thank you.

SENATOR COORDSEN: Time.

SENATOR STUHR: Thank you.

SENATOR COORDSEN: Senator McKenzie.

SENATOR MCKENZIE: Thank you, Mr. President and members of the body. I want to begin, first of all, to address the Cap Dierks amendment that's before us and this does get to the heart of many of the discussions that the Water Council held and that we've had in Natural Resources Committee, and part of it does go to the issue of grandfathering. Certainly looking at the amendment and its two parts, in philosophy I think I agree with the first half of the amendment. On the other hand, if we are going to talk about share and share alike and correlative rights, the second half of the amendment is in conflict with that whole philosophy because now in the second part we're going to talk about creating a senior water right for someone who has historic use of water. So these are the two conflicts that we have dealt with throughout the discussion because of the first-in-time right doctrine for surface water, because of correlative rights for ground water. That's been the conflict and you see the conflict here clearly in this amendment. I cannot support the amendment because I argued that, in fact, allowing the NRD to choose whether or not to grandfather in existing ground water users and to treat new developments differently, in my mind, goes against the whole idea of correlative rights. I would prefer to see us treat everyone the same way, whether it's an older well in the management area or a new well in the management area. The other comment I'd like to make is in relation to the discussion about the conflicts between Nebraska and Kansas, the conflicts in the relicensing. My "no" vote to advance the bill from committee goes to the heart of that discussion. I'm absolutely convinced the process we've established in 108 to deal with conflicts within the state is probably a good process. I also believe when we get in conflicts with other states and with the federal government the process we've created will probably not be applicable. In fact,