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## Management of Hydrologically Connected Surface Water and Groundwater in Nebraska

J. David Aiken

*University of Nebraska-Lincoln*

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# Cornhusker Economics

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Institute of Agriculture & Natural Resources  
Department of Agricultural Economics  
University of Nebraska – Lincoln

### Management of Hydrologically Connected Surface Water and Groundwater in Nebraska

Market Report	Yr Ago	4 Wks Ago	6/4/04
<b><u>Livestock and Products,</u></b>			
<b><u>Average Prices for Week Ending</u></b>			
Slaughter Steers, Ch. 204, 1100-1300 lb Omaha, cwt .....	\$80.40	\$92.00	\$90.40
Feeder Steers, Med. Frame, 600-650 lb Dodge City, KS, cwt .....	*	111.60	108.00
Feeder Steers, Med. Frame 600-650 lb, Nebraska Auction Wght. Avg .....	104.17	119.42	118.97
Carcass Price, Ch. 1-3, 550-700 lb Cent. US, Equiv. Index Value, cwt ....	132.74	146.96	142.66
Hogs, US 1-2, 220-230 lb Sioux Falls, SD, cwt .....	46.00	58.25	60.00
Feeder Pigs, US 1-2, 40-45 lb Sioux Falls, SD, hd .....	*	*	*
Vacuum Packed Pork Loins, Wholesale, 13-19 lb, 1/4" Trim, Cent. US, cwt ....	122.18	123.74	132.82
Slaughter Lambs, Ch. & Pr., 115-125 lb Sioux Falls, SD, cwt .....	103.00	*	113.25
Carcass Lambs, Ch. & Pr., 1-4, 55-65 lb FOB Midwest, cwt .....	208.46	186.78	201.67
<b><u>Crops,</u></b>			
<b><u>Cash Truck Prices for Date Shown</u></b>			
Wheat, No. 1, H.W. Omaha, bu .....	3.31	4.08	3.75
Corn, No. 2, Yellow Omaha, bu .....	2.28	2.91	2.93
Soybeans, No. 1, Yellow Omaha, bu .....	6.25	10.47	8.59
Grain Sorghum, No. 2, Yellow Kansas City, cwt .....	3.91	5.09	5.04
Oats, No. 2, Heavy Minneapolis, MN, bu .....	1.75	1.86	1.68
<b><u>Hay,</u></b>			
<b><u>First Day of Week Pile Prices</u></b>			
Alfalfa, Sm. Square, RFV 150 or better Platte Valley, ton .....	122.50	150.00	150.00
Alfalfa, Lg. Round, Good Northeast Nebraska, ton .....	62.50	55.00	55.00
Grass Hay, Sm. Square, Good Northeast Nebraska, ton .....	117.50	87.50	87.50
* No market.			

On April 13, 2004 the Nebraska Legislature adopted LB962, one of the most far-reaching water laws in the state's history. Governor Johanns signed LB962 into law on April 15, 2004. LB962 is based upon the December 2003 recommendations of the Nebraska Water Policy Task Force, and builds upon 1996 integrated water management legislation (LB108). This newsletter traces the development of integrated water management policies in Nebraska and how they are affected by LB962.

Our journey begins in 1986 with publication of the Nebraska Natural Resources Commission (NRC) policy issue study on conflicts between surface water users and groundwater users. While the report did not lead to legislation, it provided much of the technical background that was crucial to enacting LB108 in 1996 and LB962 in 2004. In 1989 Nebraska began participating in the Federal Energy Regulatory Commission's hydropower re-licensing of Kingsley Dam (Lake McConaughy). Platte River endangered species concerns would lead to the 1997 three-state Platte River Cooperative Agreement. In 1993, LB301 authorized Nebraska municipalities to acquire surface water appropriations for wellfields that induced recharge from the river. While LB301 did not deal with the integrated management of hydrologically connected surface water and groundwater supplies, it was the first major legislative exploration of surface-groundwater interrelationships.

In 1994 the Special Master in the lawsuit between Kansas and Colorado over the Arkansas River Compact ruled that junior Colorado wells were withdrawing tributary groundwater and violated the compact. This ruling was affirmed by the U.S. Supreme Court in 1995, foreshadowing a similar 2002 ruling when Kansas sued Nebraska alleging similar violations of the Republican River Compact.

In 1996 LB108 was enacted in response to integrated management issues related to Kansas's threatened lawsuit regarding possible Republican River Compact violations, and concerns regarding Platte River endangered species. LB108 authorized natural resource districts (NRDs) and the former Nebraska Department of Water Resources or DWR (now the Nebraska Department of Natural Resources or DNR) to regulate users of surface water (DWR/DNR) and hydrologically connected groundwater (NRDs). LB108 authorized NRDs to establish



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temporary three-year well drilling bans while management plans (then referred to as joint action plans) to manage surface and hydrologically-connected groundwater were being prepared. LB108 also authorized the DWR/DNR to step in and regulate users of hydrologically connected groundwater in response to interstate water disputes, if the DWR/DNR regulations were approved by the new Integrated Water Review Committee (IWRC). The IWRC was established to mediate NRD-DWR/DNR disputes regarding integrated management policies, and is composed of the Governor and two disinterested NRC members.

On July 1, 1997 Nebraska, Colorado and Wyoming signed (with the Federal government) the Platte River Cooperative Agreement, in which the parties agreed to cooperate in providing habitat flows for Platte River endangered species. The agreement includes a “no new depletions” provision prohibiting new water uses (including new wells pumping hydrologically-connected groundwater) that deplete Platte streamflow when the water is needed for endangered species. In 1997 Nebraska begins a process to identify Platte Valley wells pumping hydrologically-connected groundwater.

In May 1998 Kansas sues Nebraska for alleged violations of the Republican River Compact. In 2002 the Special Master and Supreme Court would both rule that Republican Valley irrigation wells in Nebraska pumping hydrologically connected groundwater are subject to the compact. The lawsuit was settled in December 2003.

In 2001 the Spear T Ranch begins legal proceedings against the DNR and ultimately against private groundwater irrigators alleging that irrigation wells had dried up Pumpkin Creek and the ranch’s surface water appropriations. The Supreme Court heard the Spear T’s appeal this spring, and a ruling regarding whether the case can go to trial is expected this fall.

In 2002 the Water Policy Task Force was established to review LB108, to consider water law changes enabling Nebraska to meet its Platte River cooperative agreement obligations and also to consider implications of the Spear T litigation. The task force’s December 2003 recommendations become LB962, which was adopted in April 2004.

On July 16, 2004 (the date LB962 takes effect) all or parts of nine NRDs will be considered “fully appropriated” under LB962: Upper Niobrara-White (Chadron), North Platte (Gering), South Platte (Sidney), Twin Platte (North Platte), Central Platte (Grand Island), Upper Republican (Imperial), Middle Republican (Curtis), Lower Republican (Alma) and Tri- Basin (Holdrege). Those NRDs or portions thereof are considered “fully appropriated” because they had already initiated the LB108 integrated water management process. In addition, LB962 enables the DNR to bring areas into the integrated water management process by designating them as “fully appropriated” or “over-appropriated.” By September 15, 2004 the DNR will designate river basins that are currently considered to be “over-appropriated.” The DNR indicates that only the Platte River above Elm Creek is likely to be so designated. Finally, LB962 requires the DNR to annually survey all remaining river basins and sub-basins to make a preliminary determination of whether they are “fully appropriated.” In making these determinations the DNR will take into account the expected long-term availability of hydrologically-connected groundwater. The first DNR report will be completed by January 1, 2006 and will be updated yearly.

DNR basin designations as “fully appropriated” or “over-appropriated” triggers immediate bans of new wells or surface water rights, as well as the integrated water management process. Upon designation, the DNR and affected NRDs have 3-5 years to develop an integrated management plan (IMP). IMPs will identify any long-term water supply deficit, and will use incentives and regulations to close the water supply gap. IMPs will be in 10-year increments, with IMP revisions occurring each ten years until the long-term water supply deficit has been ended. IMPs may rely on a number of voluntary measures as well as the surface water and groundwater regulatory controls authorized by the integrated water management statutes. Among the authorized groundwater controls are groundwater allocations (i.e. withdrawal limits), pumping rotation, reducing irrigated acres and incentive programs (e.g. paying farmers not to irrigate). LB962 also authorizes water marketing, the buying and selling of surface water rights. LB962 appropriates \$2.5 million to the DNR for 2004-05 program implementation.

LB962 is a major Nebraska water policy milestone. The new authorities allowing the DNR to bring areas into the integrated water management program, the ability to purchase water rights and pay farmers to not irrigate, and the significant program funding will result in important water management changes in the Platte and Republican River Basins. More information is available from the DNR at [www.dnr.state.ne.us](http://www.dnr.state.ne.us)

J. David Aiken, (402) 472-1848  
Water & Agricultural Law Specialist  
[daiken@unl.edu](mailto:daiken@unl.edu)

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