

Figure 2: Surface water appropriations in the NPNRD listed by priority year and approved use.

Groundwater Level Measurement
 18N 49W 2C0 - SW of Broadwater
 Quaternary Alluvium / Tertiary Ogallala
 without Surface Water Influence

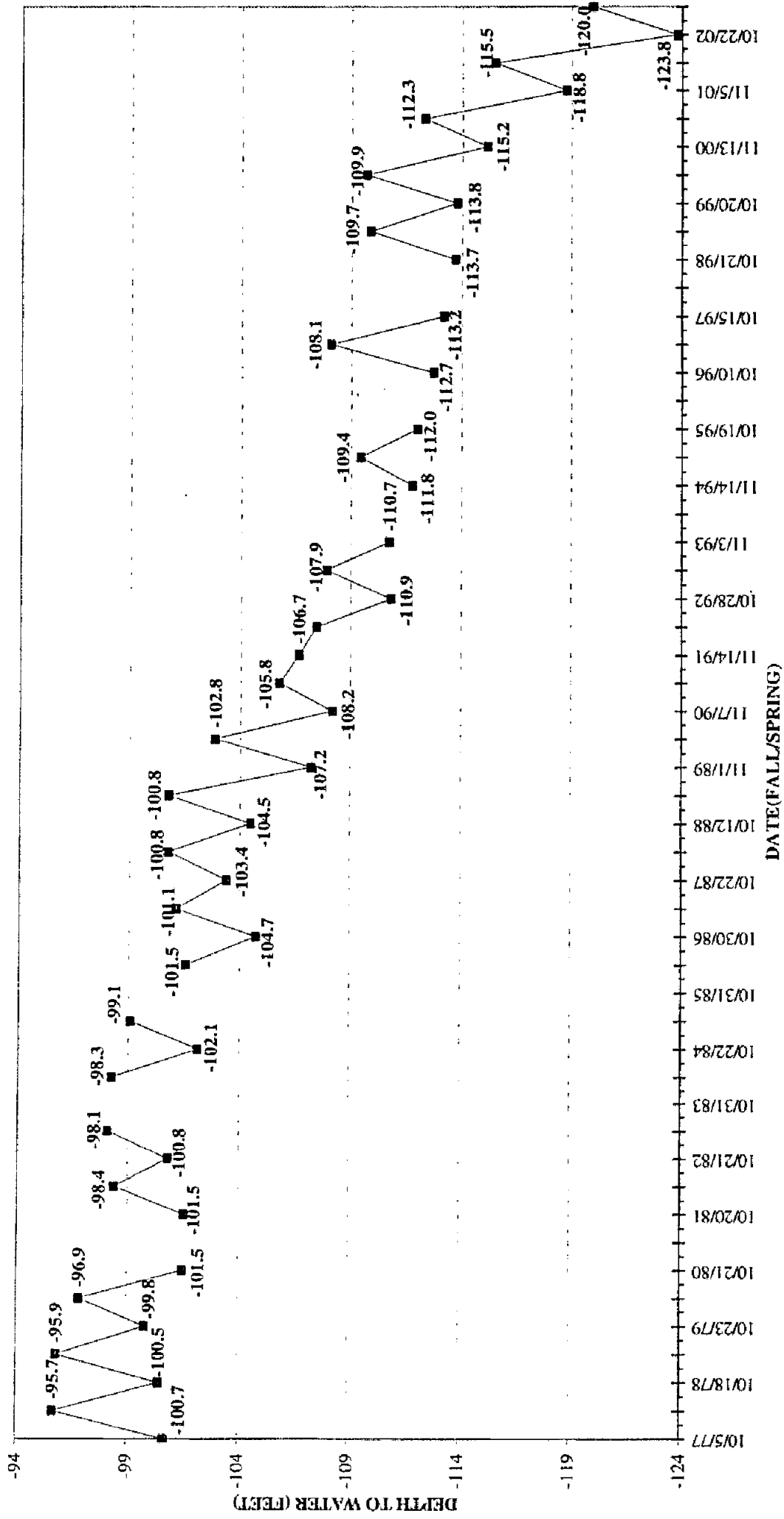


Figure 6: Hydrograph of a well not influenced by surface water canals, DNR Registration number G-029574.

Schematic Hydrologic Models

Basic Canal

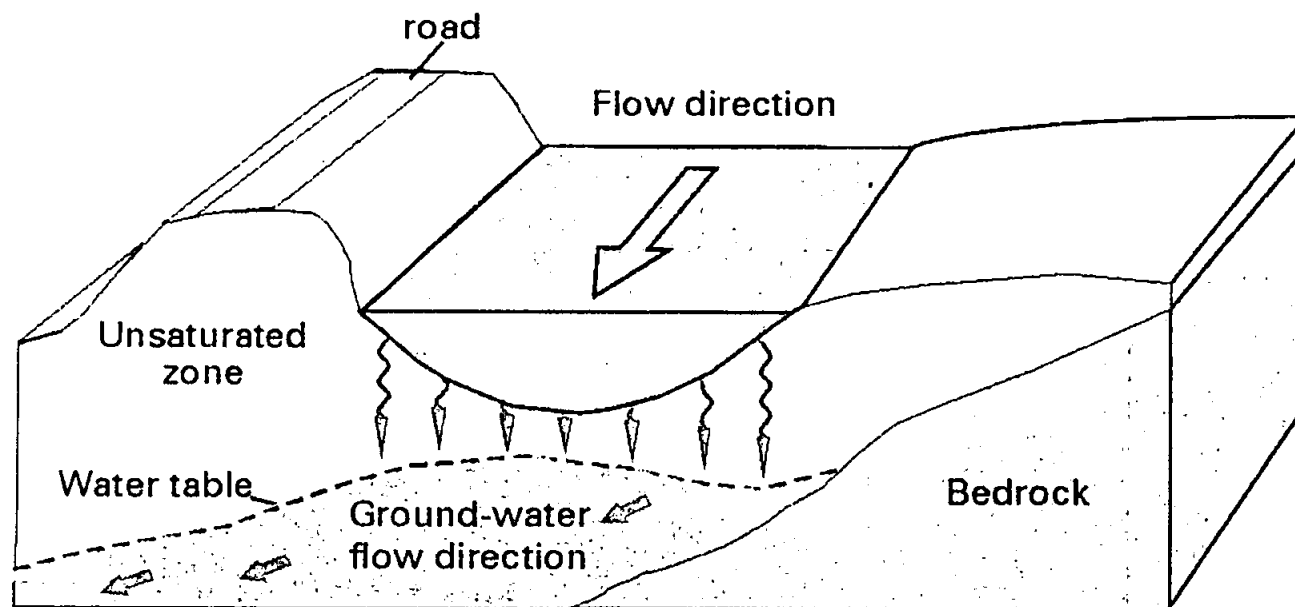


Figure 8: Canal leaking surface water to the ground water table.

North Platte Valley

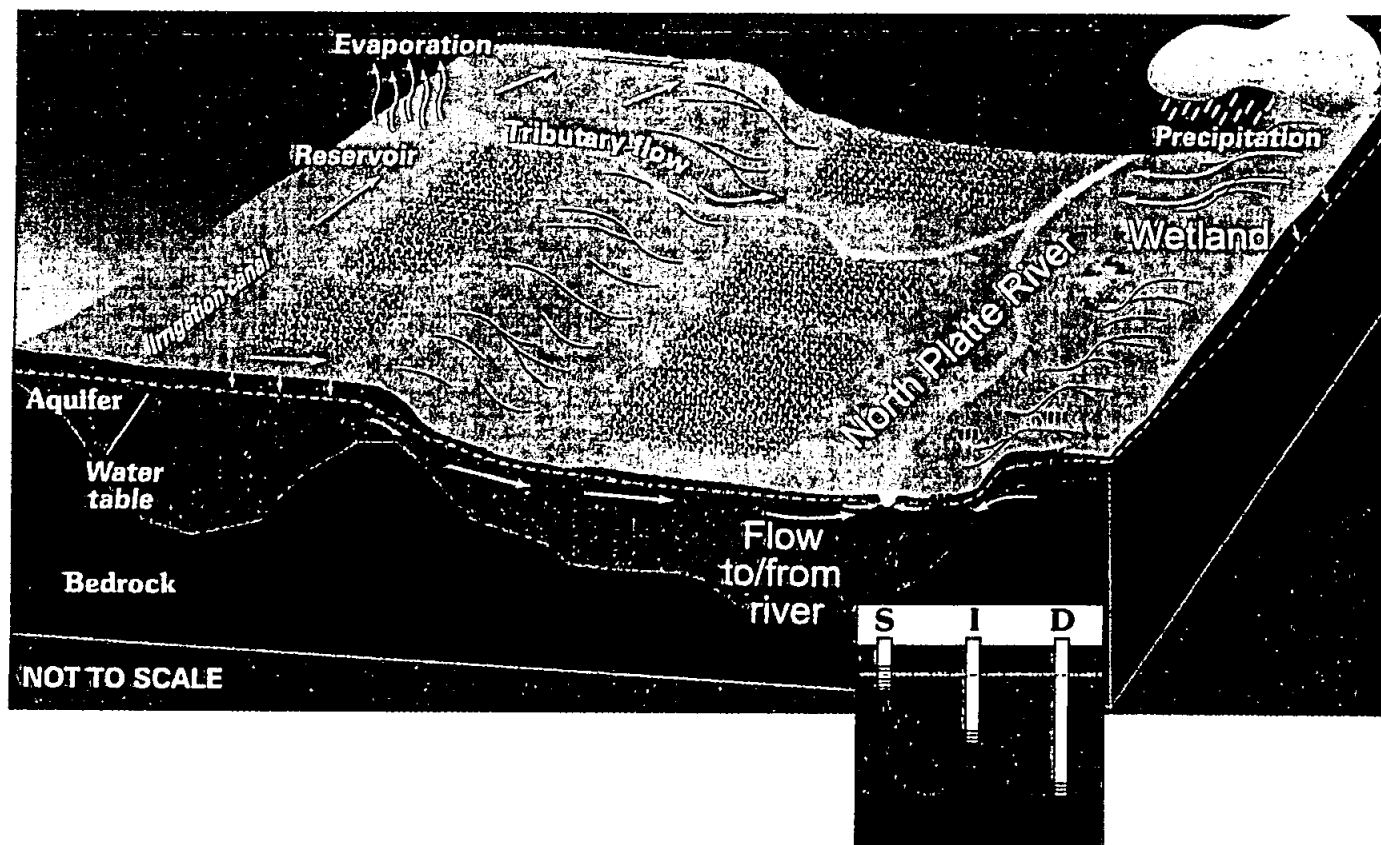


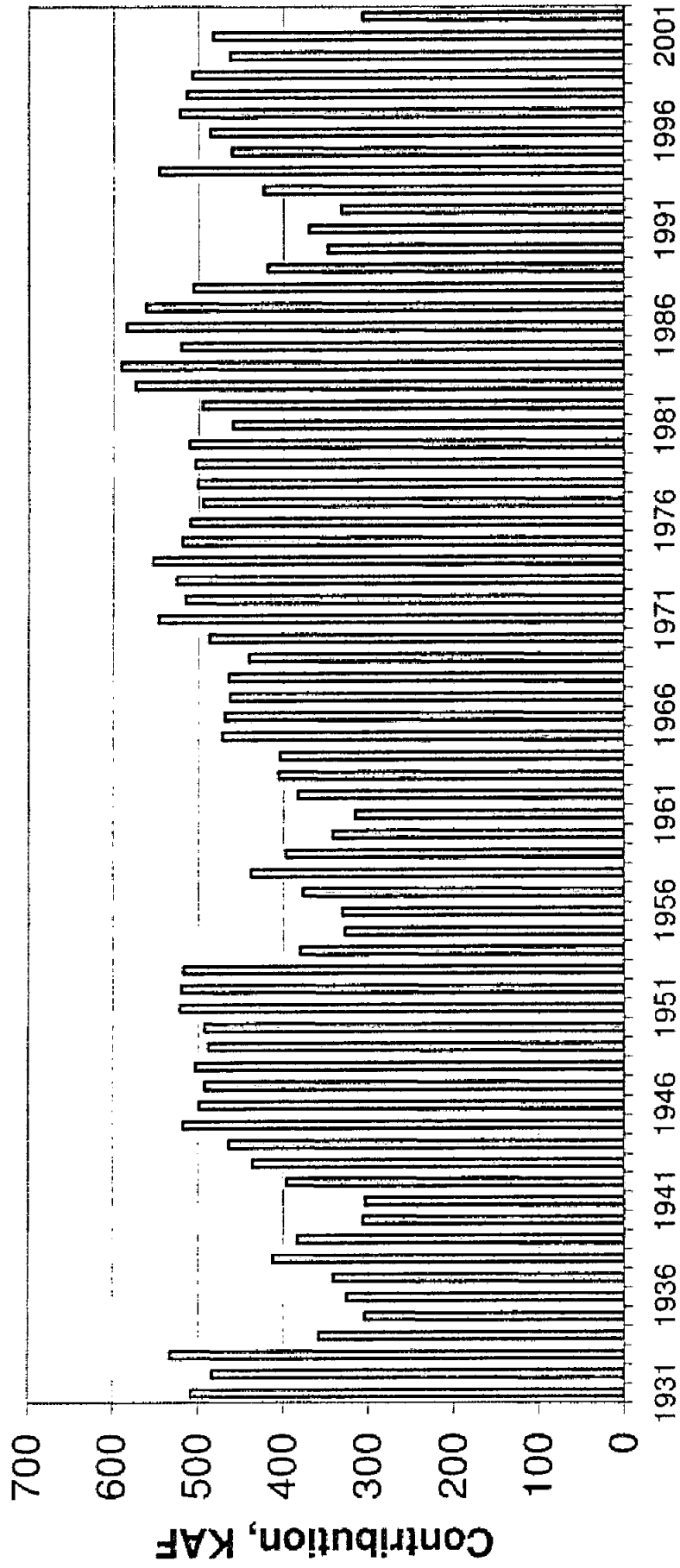
Figure 9: Modified from Winter and others, 1998; monitoring wells: S – Shallow, I – Intermediate, & D – Deep.

Figure 5 Cumulative Number of Irrigation Wells by Year



Figure 6 Total Contribution from Nine Tributaries

(Including both discharge into NPR and irrigation diversion)



Water Year

Nine tributaries are:

- | | | |
|--------------|------------------|------------------------|
| Bayard Drain | Red Willow Creek | Dry Spotted Tail Creek |
| Gering Drain | Nine Mile Drain | Tub Springs |
| Horse Creek | Sheep Creek | Winters Creek |

Figure 7 North Platte River Flow at Lewellen vs. Guernsey Reservoir Outflow

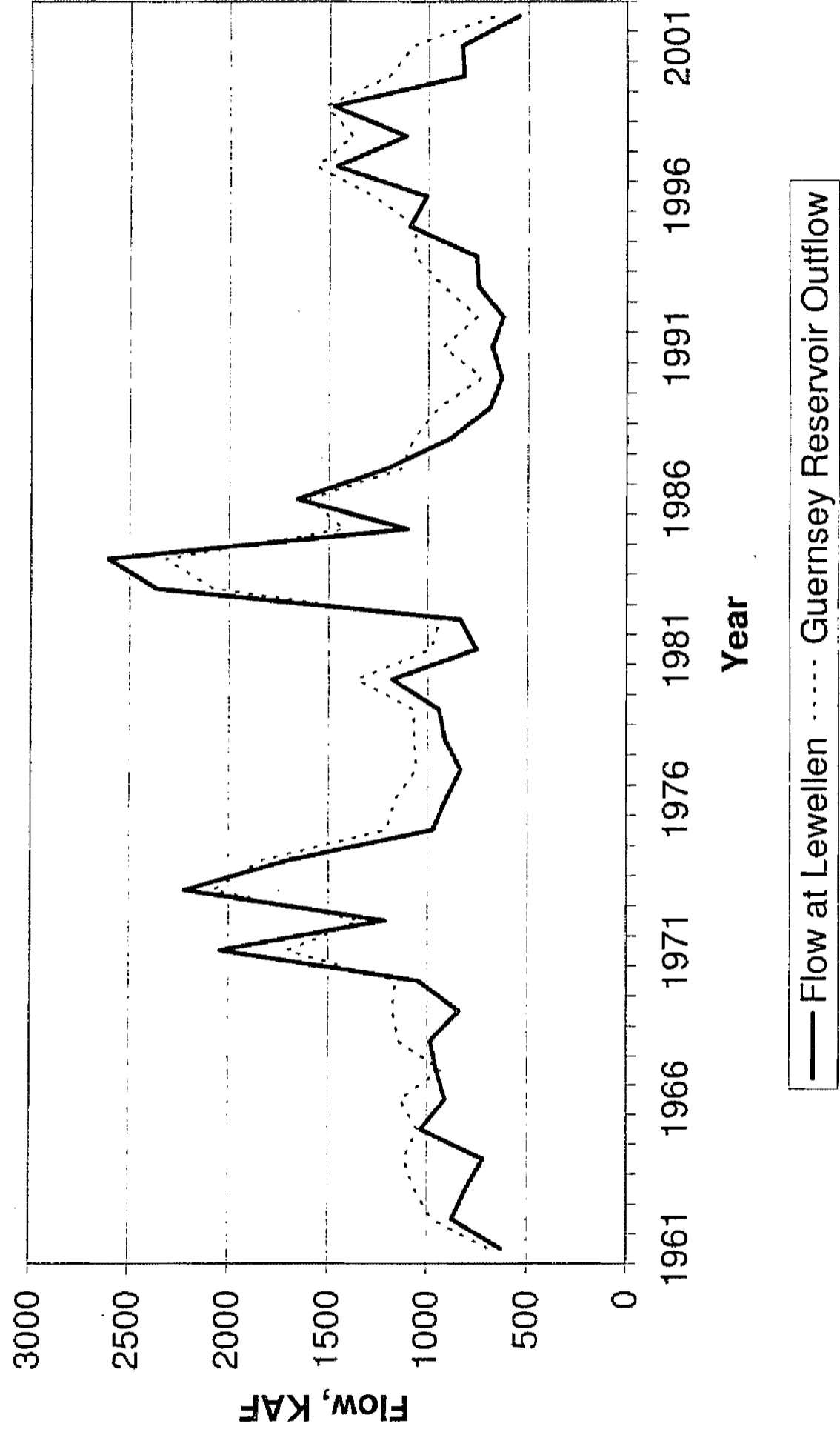


Figure 26 Sheep Creek Flow Trend Analyses

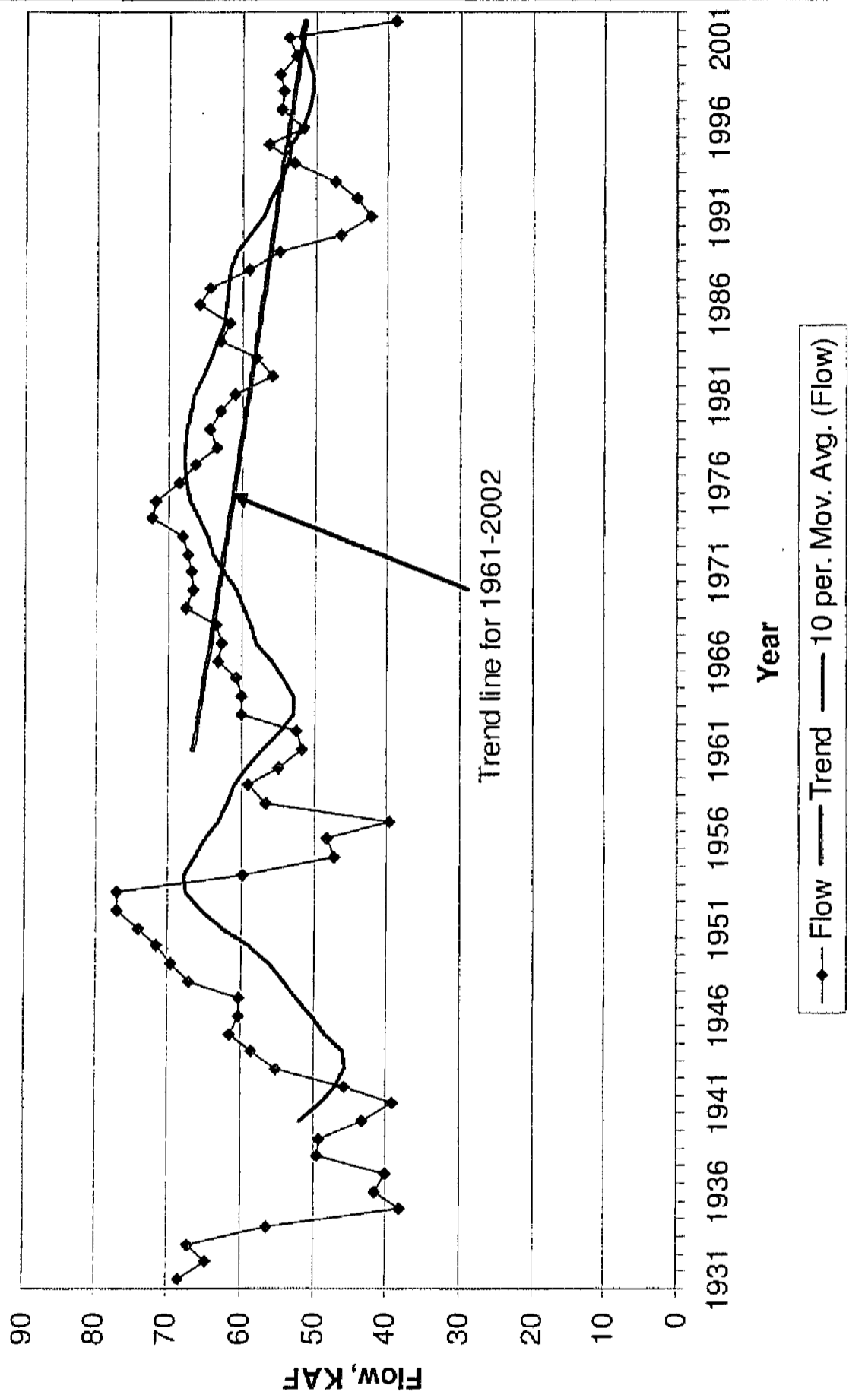


Figure 31 Nine Mile Creek Flow Trend Analyses

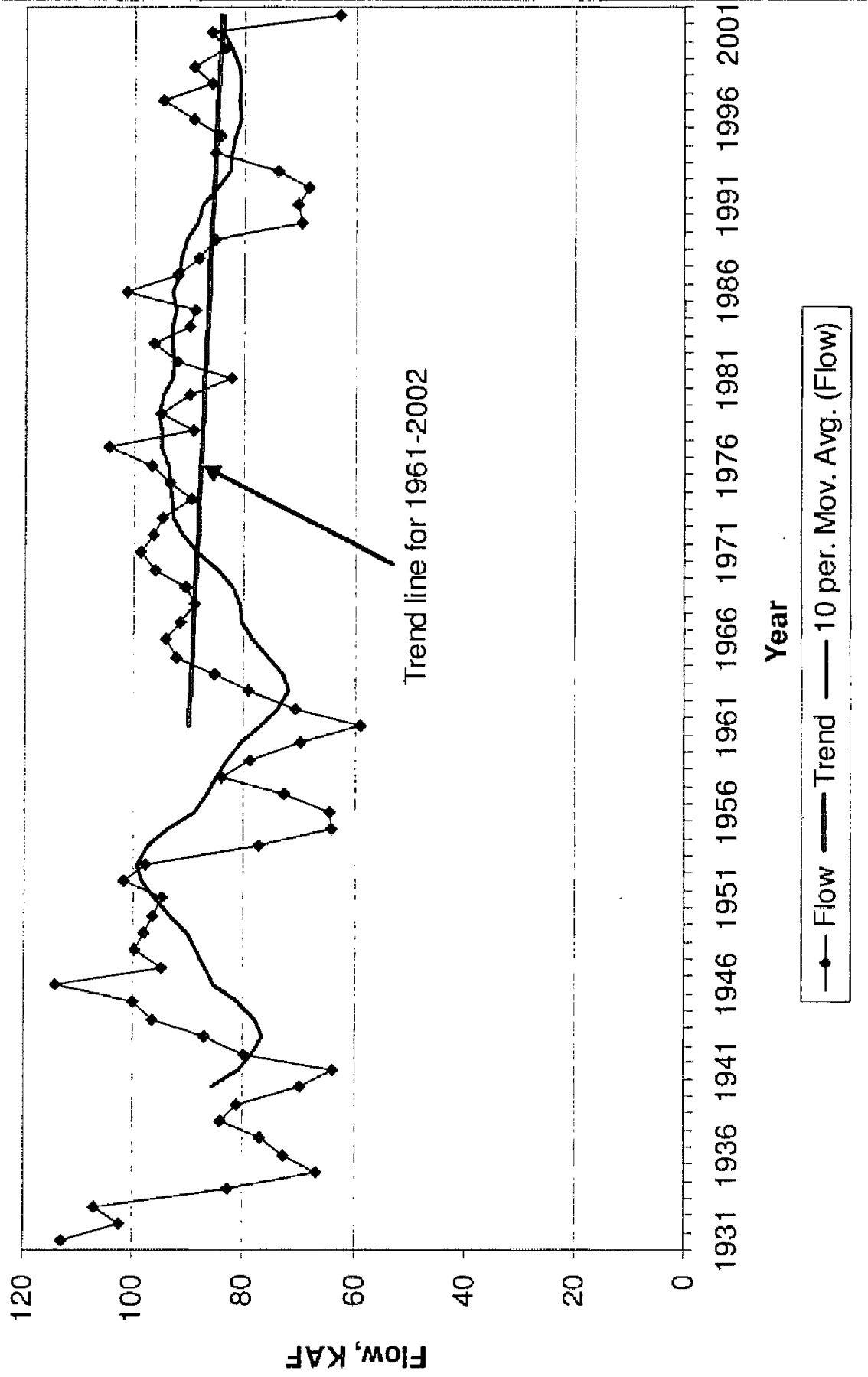


Figure 34 Blue Creek Flow Trend Analyses

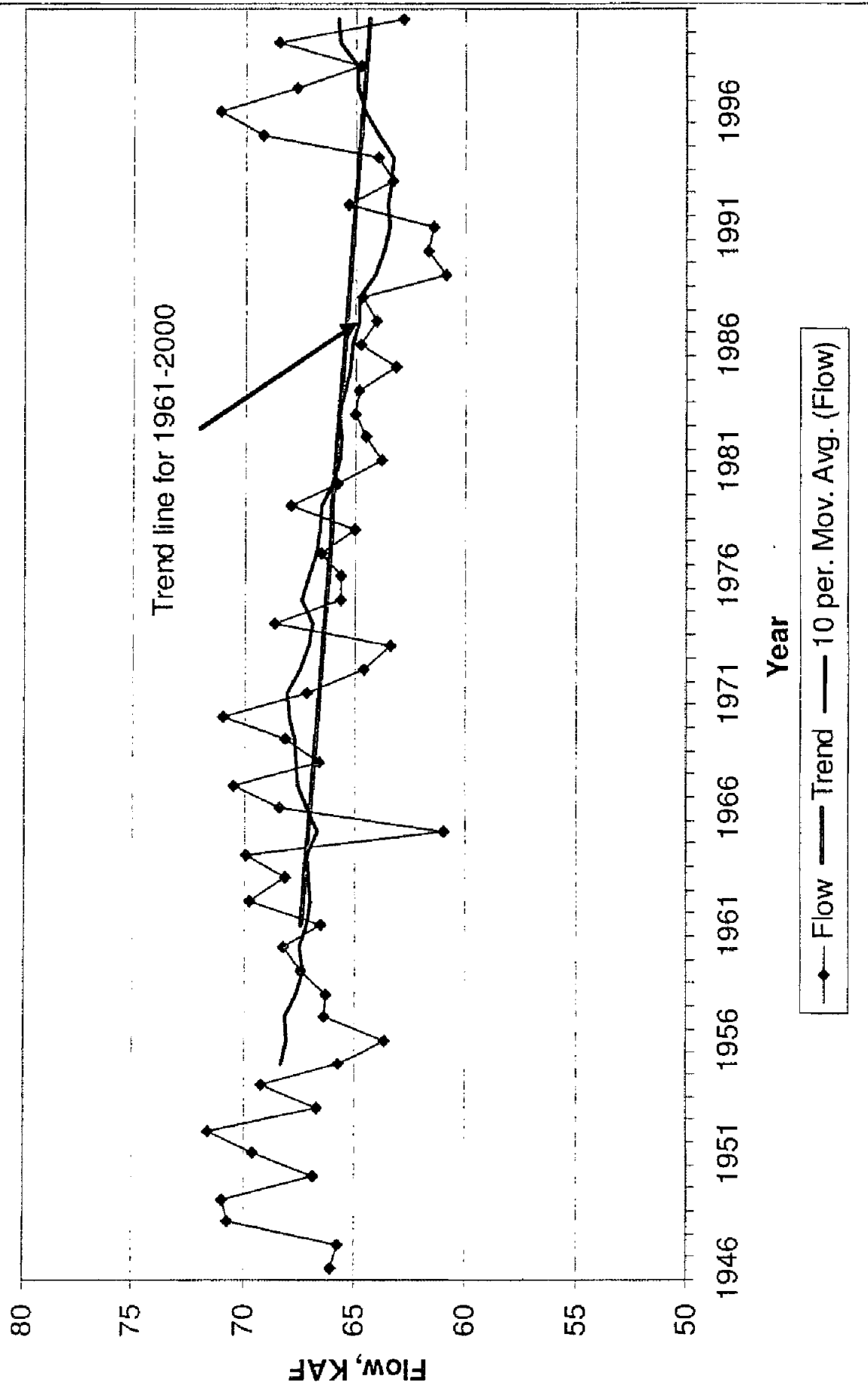
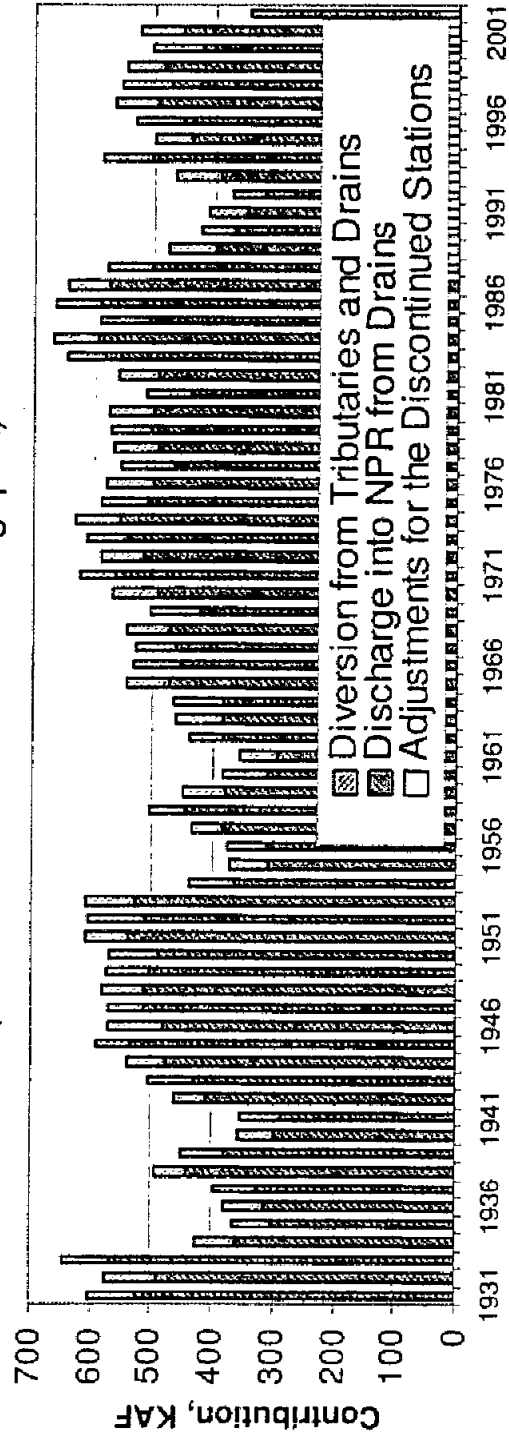


Figure 2 Historic Contribution from Tributaries and Drains
(Between State Line and Bridgeport)



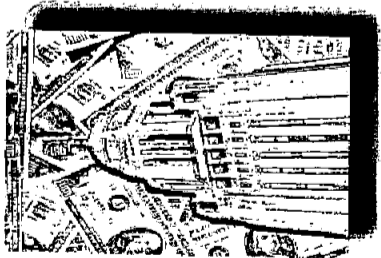
Water Year

Tributaries and Drains are as of 1986:

Bald	Fairfield	Lane	Scottsbluff #2
Bayard	Fanning	Melbeta	Sheep
Cleveland	Gering	Nine Mile	Dry Spottedtail
DeGraw	Horse	Red Willow	Wet Spottedtail
Upper Dugout	Indian	Scottsbluff #1	Tub Springs, and Winters

the purpose of benefiting fish or wildlife or producing other environmental benefits. The determination of whether to grant a permit is to be based upon stated factors, including whether the use is a beneficial use, the availability of alternative supplies, negative effects of the proposed withdrawal, cumulative effects of the proposed and other transfers, and consistency with groundwater management plans and integrated management plans.

Funding Provisions



- LB962 establishes a **Water Resources Trust Fund** into which state appropriations and other funds relative to the implementation of LB962 may be deposited and from which expenditures may be made for that implementation. The funds available may be used for determining which basins, subbasins and reaches need to have IMPs developed and for implementation of those IMPs. In most instances, funds provided to natural resources districts and other local subdivisions will require at least a 20% local match.

- For **FY2004-05, LB962A appropriates \$2.5M.** \$1M of that amount will be provided through a transfer from the Environmental Trust Fund and the other \$1.5M will come from the General Fund. The \$1.5M General Fund appropriation comes indirectly through a transfer to the General Fund of the same amount from the Petroleum Release Remedial Action Cash Fund administered by the Department of Environmental Quality.

- Natural resources districts will have the authority to levy up to an additional 1 cent per \$100 hundred assessed valuation if needed to perform their responsibilities under the Groundwater Management and Protection Act. They may also exceed the allowable annual budget increase for the same reason.

Other Provisions

- The Water Policy Task Force will continue to meet through 2009 to provide guidance on water policy matters.

- Public water suppliers (cities, villages, rural water districts, etc.) will be entitled to spacing protection for up to two years around a proposed wellfield if application for a permit to transfer the water from that wellfield is filed pursuant to the Municipal and Rural Domestic Groundwater Transfers Permit Act administered by DNR. The spacing protection will be from the boundaries of the tract that is proposed for the wellfield and will be the greater of 1000' or the spacing protection provided by the NRD within which the wellfield would be located.

- The bill extends from June 30, 2005 to June 30, 2009 the last date of reporting petroleum releases if financial assistance from the Petroleum Release Remedial Action Cash Fund is to be requested.

- **LB962 also makes numerous "housekeeping" amendments** to several state surface water and groundwater statutes. Those include revisions relating to: map requirements for surface water rights; use of water out of small reservoirs for watering range livestock; annual reporting by surface water users; the review and administration of instream flow appropriations; water well spacing and registration requirements; definitions for the Groundwater Management and Protection Act; the controls that NRDs may adopt in groundwater management areas; municipal transfers into NRD declared moratorium or temporary suspension areas; standardization of requirements for NRD hearings and notices thereof; the imposition of water penalties for violation of NRD cease and desist orders; and the necessity for hearings before DNR grants permits to transfer groundwater off the overlying land for industrial purposes.

For additional information on any of those provisions, contact the Department of Natural Resources.



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LB962 Enacted Into Law

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On April 13, 2004, the Nebraska Legislature adopted LB962, a bill described by many as the most significant water policy legislation passed since at least 1996. Governor Johanns signed the bill into law on April 15, 2004.



The bill also adds more flexibility to current Nebraska statutes governing the transfer of surface water rights to a different location of use and it updates statutes relating to the cancellation of water rights that are no longer being used. Finally it updates a number of individual water management statutes and includes the provisions of several other water related bills that were advanced to General File by the Legislature's Natural Resources Committee but would not have been acted on had they not been added to LB962.

LB962

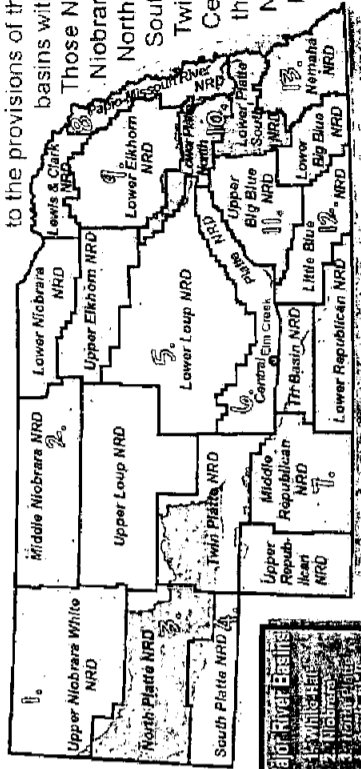
reflects a consensus that was reached in December by a 49 member task force appointed in 2002 by Governor Johanns. That task force included irrigators from each of the state's 13 major river basins as well as representatives of natural resources districts, public power districts, municipalities, agricultural organizations, recreation users, environmental interests, the public at large, the Legislature's Natural Resources Committee, the Attorney General's Office and the Department of Natural Resources (DNR). According to state Director of Natural Resources, Roger Patterson, the bill will make the state and its 23 natural resources districts much more proactive in anticipating and preventing conflicts between groundwater users and surface water users. In those portions of the state where such conflicts already exist, the legislation also establishes principles and timeliness for resolving those conflicts. Patterson indicated that

deciding how to address those already "over appropriated" river basins was one of the most difficult challenges faced by the task force. He noted, however, that the task force finally reached agreement on how to resolve those conflicts while treating the affected water users fairly.

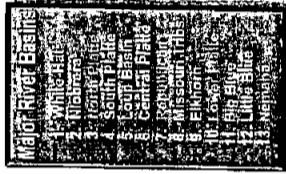
A more detailed summary of LB962 follows:

Integrated Management Provisions

- On July 16, the operative date of LB962, all or portions of nine natural resources districts will be considered "fully appropriated" and subject to the provisions of the bill that relate to basins with that designation. Those NRDs are: The Upper Niobrara White NRD, the North Platte NRD, the South Platte NRD, the Twin Platte NRD, the Central Platte NRD, the Upper Republican NRD, the Middle Republican NRD, the Lower Republican NRD, and the Tri Basin NRD. Those NRDs or portions thereof will be considered "fully appropriated" because they each are involved in an active planning process under current law for integrated management of hydrologically connected groundwater and surface water. How each will be affected when LB962 becomes operative on July 16 will depend upon the actions that district and the DNR have taken under existing law prior to that date. For information in that regard, contact DNR. Note also the general description of the planning process and the stays that follow the designation of an area as "fully appropriated."



Nebraska's Major River Basins and 23 Natural Resources Districts



of permits or changes in use will not adversely impact existing users or be contrary to the public interest.

- An expedited transfer approval process is provided for some irrigation transfers if there will be no change in the diversion point, no diminution of water supply for other appropriators, no increase in the number of acres irrigated, etc. For transfers that meet those and the other criteria, neither publication of notice nor hearings will be required.

Adjudication of Surface Water Rights

- The period of allowable non-use of surface water rights before cancellation without acceptable excuses is **extended from 3 years to 5 years**. If there are excusable reasons for nonuse, the allowable period of non-use without cancellation is **extended from 10 to 15 years**. If the unavailability of water was the reason for nonuse, the period of allowable non-use before cancellation may be **extended from 10 years to up to 30 years** or, upon petition by the appropriator, even longer if the permit is in a basin that has been determined to be over appropriated or fully appropriated and water is expected to be restored for use in accordance with an integrated management plan.
- When an appropriation held in the name of an irrigation district or company is cancelled as to use on a particular tract of land, the district shall have up to 5 years to assign the right to another tract or another use.

Transfers of Groundwater off the Overlying Land

- Natural resources districts are authorized to require as a management area control: (1) district approval of transfers of groundwater off the land where it is withdrawn, and (2) district approval of transfers of rights to use groundwater that result from district allocations imposed under the Groundwater Management and Protection Act. The district must deny or condition the transfer if needed to: (1) ensure consistency of the transfer with the purposes of the management area, (2) prevent adverse impacts on groundwater users, surface water appropriators, or the state's ability to comply with an interstate compact, decree, or agreement, and (3) otherwise protect the public interest and prevent detriment to the public welfare.
- Natural resources districts also are empowered to permit groundwater transfers off the overlying land to augment supplies in wetlands or natural streams for

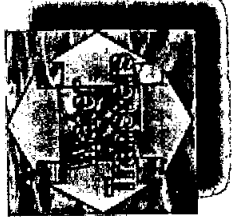
developed and the goal will have to be to restore, in an incremental manner, that basin to the "fully appropriated" status. Specific objectives for the first ten year increment of implementation of the IMPs for the "over appropriated" basin are contained in the bill and are consistent with the proposed New Depletion Plan for the Platte River Cooperative Agreement.

- The IMPs may rely on a number of voluntary measures as well as the surface water and groundwater regulatory controls that are authorized by current law and are enhanced by LB962. Among the authorized groundwater controls are allocation of groundwater withdrawals, rotation of use, reduction of irrigated acres, and other measures. NRDs are given specific authority to include incentive programs in the IMPs.

- If there are disputes between the DNR and NRDs over the development or implementation of an IMP and if they cannot resolve those disputes, a five member Interrelated Water Review Board (IWRB) will make the final decision about which components to put into the plan or how the plan shall be implemented. The Board will consist of five members including the Governor or his or her appointee, one additional member of the Governor's choice and three additional members appointed by the Governor from a list of at least six persons nominated by the Nebraska Natural Resources Commission.

Transfers of Surface Water Rights

- Transfers of surface water rights from one location to another will continue to be allowed. In specified instances DNR will also be authorized to issue temporary and permanent permits that either change the purpose for which water is used or change a permit to use from one type to another, e.g. from direct use to storage. Only a temporary transfer or change will be allowed if it involves a change in use to a different preference category. Temporary permits may be for as long as 30 years and may be renewable. Safeguards are added to ensure that changes in type

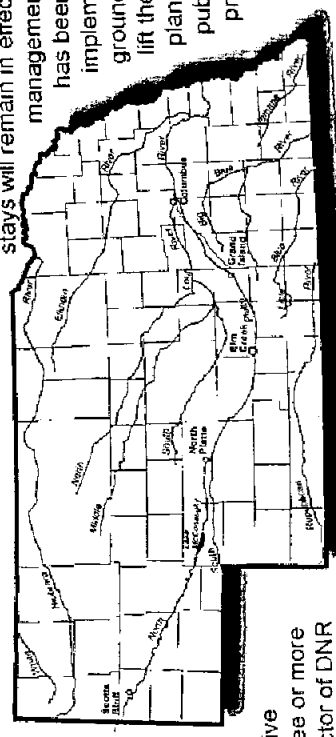


that will be considered will include all then permitted uses of both groundwater and surface water, including Nebraska instream flow appropriations.

Whenever a basin is declared "over appropriated" or "fully appropriated", there will be immediate stays on new uses of groundwater and surface water. Those stays will remain in effect until the integrated management plan for that basin has been completed and implemented, except that for groundwater, the NRD could lift the stays during the planning process after a public hearing on such a proposal.

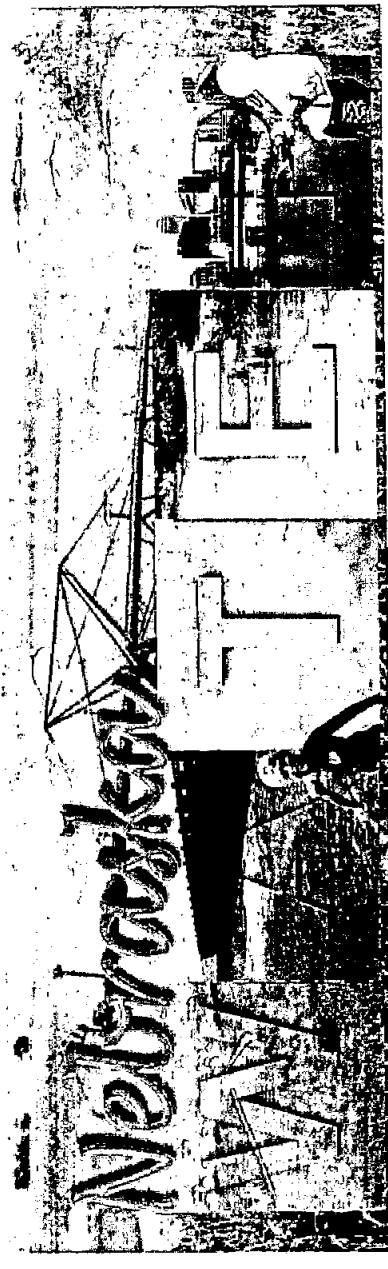
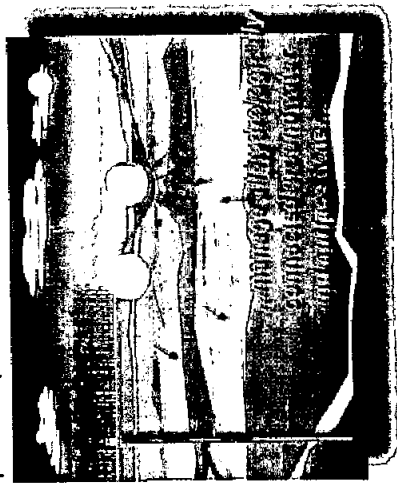
- In basins designated as either "fully appropriated" or "over appropriated", the DNR and the NRDs involved will be required to jointly develop and implement an integrated surface water and groundwater management plan (IMP) within 3 to 5 years of that designation.

- By statute, a key goal of each IMP will be to manage all hydrologically connected groundwater and surface water for the purpose of sustaining a balance between water uses and water supplies so that the economic, social and environmental health, safety and welfare of the basin, sub-basin or reach can be achieved and maintained for both the near and long term. In the "over appropriated" basin, an overall basin wide plan will have to be



- On or before September 15, 2004, the Director of Natural Resources will designate any "over appropriated" basin, sub-basin, or reach in the state. An "over appropriated" basin is one where the extent of development is not sustainable over the long term, i.e. the already permitted uses are in excess of what can be supported by the water supply over the long term. The criteria for designation are that the basin involved be subject to a moratorium on the issuance of new surface water rights and be subject to an interstate cooperative agreement among three or more states. Also, the Director of DNR must have requested that the affected NRDs establish or maintain a moratorium or temporary suspension on the construction of new wells in all or part of that basin. The Director has indicated that only the Platte River Basin upstream of Elm Creek is likely to be designated as an "over appropriated" basin. At the time of designation, the Director will have to determine what portions of the basin have hydrologically connected resources for which the integrated management plan will need to be developed.

- Beginning by January, 2006, the Department of Natural Resources will make annual determinations of which basins, sub-basins or river reaches not previously designated as "fully appropriated" or "over appropriated" have since become "fully appropriated." A basin will be so designated when it is determined, taking into account the lag effect of groundwater use, that if further development were to occur, the balance between water use and water supplies could not be sustained. The water uses



1 ~~the district.~~

2 Sec. 53. (1)(a) By January 1 of each year beginning in
3 2006 and except as otherwise provided in this section and section
4 60 of this act, the Department of Natural Resources shall complete
5 an evaluation of the expected long-term availability of
6 hydrologically connected water supplies for both existing and new
7 surface water uses and existing and new ground water uses in each
8 of the state's river basins and shall issue a report that describes
9 the results of the evaluation. For purposes of the evaluation and
10 the report, a river basin may be divided into two or more subbasins
11 or reaches. A river basin, subbasin, or reach for which an
12 integrated management plan has been or is being developed pursuant
13 to sections 55 to 57 of this act or pursuant to section 59 of this
14 act shall not be evaluated unless it is being reevaluated as
15 provided in subsection (2) of this section. For each river basin,
16 subbasin, or reach evaluated, the report shall describe (i) the
17 nature and extent of use of both surface water and ground water in
18 each river basin, subbasin, or reach, (ii) the geographic area
19 within which the department preliminarily considers surface water
20 and ground water to be hydrologically connected and the criteria
21 used for that determination, and (iii) the extent to which the
22 then-current uses affect available near-term and long-term water
23 supplies. River basins, subbasins, and reaches designated as
24 overappropriated in accordance with subsection (4) of this section
25 shall not be evaluated by the department.

26 (b) Based on the information reviewed in the evaluation
27 process, the department shall arrive at a preliminary conclusion
28 for each river basin, subbasin, and reach evaluated as to whether

1 such river basin, subbasin, or reach presently is fully
2 appropriated without the initiation of additional uses. The
3 department shall also determine if and how such preliminary
4 conclusion would change if no additional legal constraints were
5 imposed on future development of hydrologically connected surface
6 water and ground water and reasonable projections are made about
7 the extent and location of future development in such river basin,
8 subbasin, or reach.

9 (c) In addition to the conclusion about whether a river
10 basin, subbasin, or reach is fully appropriated, the department
11 shall include in the report, for informational purposes only, a
12 summary of relevant data provided by any interested party
13 concerning the social, economic, and environmental impacts of
14 additional hydrologically connected surface water and ground water
15 uses on resources that are dependent on streamflow or ground water
16 levels but are not protected by appropriations or regulations.

17 (d) In preparing the report, the department shall rely on
18 the best scientific data and information readily available. Upon
19 request by the department, state agencies, natural resources
20 districts, irrigation districts, reclamation districts, public
21 power and irrigation districts, mutual irrigation companies, canal
22 companies, municipalities, and other water users and stakeholders
23 shall provide relevant data and information in their possession.
24 The Department of Natural Resources shall specify by rule and
25 regulation the types of scientific data and other information that
26 will be considered for making the preliminary determinations
27 required by this section.

28 (2) The department shall complete a reevaluation of a

1 river basin, subbasin, or reach for which an integrated management
2 plan has been or is being prepared if the department has reason to
3 believe that a reevaluation might lead to a different determination
4 about whether such river basin, subbasin, or reach is fully
5 appropriated or overappropriated. A decision to reevaluate may be
6 reached by the department on its own or in response to a petition
7 filed with the department by any interested person. To be
8 considered sufficient to justify a reevaluation, a petition shall
9 be accompanied by supporting information showing that (a) new
10 scientific data or other information relevant to the determination
11 of whether the river basin, subbasin, or reach is fully
12 appropriated or overappropriated has become available since the
13 last evaluation of such river basin, subbasin, or reach, (b) the
14 department relied on incorrect or incomplete information when the
15 river basin, subbasin, or reach was last evaluated, or (c) the
16 department erred in its interpretation or application of the
17 information available when the river basin, subbasin, or reach was
18 last evaluated. If a petition determined by the department to be
19 sufficient is filed before March 1 of any year, the reevaluation of
20 the river basin, subbasin, or reach involved shall be included in
21 the next annual report prepared in accordance with subsection (1)
22 of this section. If any such petition is filed on or after March 1
23 of any year, the department may defer the reevaluation of the river
24 basin, subbasin, or reach involved until the second annual report
25 after such filing.

26 (3) A river basin, subbasin, or reach shall be deemed
27 fully appropriated if the department determines that then-current
28 uses of hydrologically connected surface water and ground water in

1 the river basin, subbasin, or reach cause or will in the reasonably
2 foreseeable future cause (a) the surface water supply to be
3 insufficient to sustain over the long term the beneficial or useful
4 purposes for which existing natural flow or storage appropriations
5 were granted and the beneficial or useful purposes for which, at
6 the time of approval, any existing instream appropriation was
7 granted, (b) the streamflow to be insufficient to sustain over the
8 long term the beneficial uses from wells constructed in aquifers
9 dependent on recharge from the river or stream involved, or (c)
10 reduction in the flow of a river or stream sufficient to cause
11 noncompliance by Nebraska with an interstate compact or decree,
12 other formal state contract or agreement, or applicable state or
13 federal laws.

14 (4) (a) A river basin, subbasin, or reach shall be deemed
15 overappropriated if, on the operative date of this section, the
16 river basin, subbasin, or reach is subject to an interstate
17 cooperative agreement among three or more states and if, prior to
18 such date, the department has declared a moratorium on the issuance
19 of new surface water appropriations in such river basin, subbasin,
20 or reach and has requested each natural resources district with
21 jurisdiction in the affected area in such river basin, subbasin, or
22 reach either (i) to close or to continue in effect a previously
23 adopted closure of all or part of such river basin, subbasin, or
24 reach to the issuance of additional water well permits in
25 accordance with subdivision (1) (k) of section 46-656.25 as such
26 section existed prior to the operative date of this section or (ii)
27 to temporarily suspend or to continue in effect a temporary
28 suspension, previously adopted pursuant to section 46-656.28 as

1 such section existed prior to the operative date of this section,
2 on the drilling of new water wells in all or part of such river
3 basin, subbasin, or reach.

4 (b) Within sixty days after the operative date of this
5 section, the department shall designate which river basins,
6 subbasins, or reaches are overappropriated. The designation shall
7 include a description of the geographic area within which the
8 department has determined that surface water and ground water are
9 hydrologically connected and the criteria used to make such
10 determination.

11 Sec. 54. (1) Whenever the Department of Natural
12 Resources makes a preliminary determination that a river basin,
13 subbasin, or reach not previously designated as overappropriated
14 and not previously determined to be fully appropriated has become
15 fully appropriated, the department shall place an immediate stay on
16 the issuance of any new natural-flow, storage, or storage-use
17 appropriations in such river basin, subbasin, or reach. The
18 department shall also provide prompt notice of such preliminary
19 determination to all licensed water well contractors in the state
20 and to each natural resources district that encompasses any of the
21 geographic area involved. Immediately upon receipt of such notice
22 by the natural resources district, there shall be a stay on
23 issuance of water well construction permits in the geographic area
24 preliminarily determined by the department to include
25 hydrologically connected surface water and ground water in such
26 river basin, subbasin, or reach. The department shall also notify
27 the public of the preliminary determination that the river basin,
28 subbasin, or reach is fully appropriated and of the affected

1 geographic area. Such notice shall be provided by publication once
2 each week for three consecutive weeks in at least one newspaper of
3 statewide circulation and in such other newspaper or newspapers as
4 are deemed appropriate by the department to provide general
5 circulation in the river basin, subbasin, or reach.

6 (2) If the department preliminarily determines a river
7 basin, subbasin, or reach to be fully appropriated and has
8 identified the existence of hydrologically connected surface water
9 and ground water in such river basin, subbasin, or reach, stays
10 shall also be imposed (a) on the construction of any new water well
11 in the area covered by the determination if such construction has
12 not commenced prior to the determination, whether or not a
13 construction permit for such water well was previously obtained
14 from the department or a natural resources district, and (b) on the
15 use of an existing water well or an existing surface water
16 appropriation in the affected area to increase the number of acres
17 historically irrigated. Such additional stays shall begin ten days
18 after the first publication, in a newspaper of statewide
19 circulation, of the notice of the preliminary determination that
20 the river basin, subbasin, or reach is fully appropriated.

21 (3) Exceptions to the stays imposed pursuant to
22 subsection (1), (2), (9), or (10) of this section shall exist for
23 (a) test holes, (b) dewatering wells with an intended use of one
24 year or less, (c) monitoring wells, (d) wells constructed pursuant
25 to a ground water remediation plan under the Environmental
26 Protection Act, (e) water wells designed and constructed to pump
27 fifty gallons per minute or less, except that no two or more water
28 wells that each pump fifty gallons per minute or less may be

1 connected or otherwise combined to serve a single project such that
2 the collective pumping would exceed fifty gallons per minute, (f)
3 water wells for range livestock, (g) new surface water uses or
4 water wells that are necessary to alleviate an emergency situation
5 involving the provision of water for human consumption or public
6 health and safety, (h) water wells defined by the applicable
7 natural resources district as replacement water wells, but the
8 consumptive use of any such replacement water well can be no
9 greater than the historic consumptive use of the water well it is
10 to replace or, if applicable, the historic consumptive use of the
11 surface water use it is to replace, (i) new surface water uses and
12 water wells to which a right or permit is transferred in accordance
13 with state law, but the consumptive use of any such new use can be
14 no greater than the historic consumptive use of the surface water
15 use or water well from which the right or permit is being
16 transferred, (j) water wells and increases in ground water
17 irrigated acres for which a variance is granted by the applicable
18 natural resources district for good cause shown, (k) to the extent
19 permitted by the applicable natural resources district, increases
20 in ground water irrigated acres that result from the use of water
21 wells that were constructed within the nine months prior to the
22 effective date of the stay but were not used for irrigation prior
23 to that effective date, (l) to the extent permitted by the
24 applicable natural resources district, increases in ground water
25 irrigated acres that result from the use of water wells that are
26 constructed after the effective date of the stay in accordance with
27 a permit granted by that natural resources district prior to the
28 effective date of the stay, (m) surface water uses for which

1 temporary public-use construction permits are issued pursuant to
2 subsection (8) of section 46-233, (n) surface water uses and
3 increases in surface water irrigated acres for which a variance is
4 granted by the department for good cause shown, and (o) water wells
5 for which permits have been approved by the Department of Natural
6 Resources pursuant to the Municipal and Rural Domestic Ground Water
7 Transfers Permit Act prior to the effective date of the stay.

8 (4) Except as otherwise provided in this section, any
9 stay imposed pursuant to subsections (1) and (2) of this section
10 shall remain in effect for the affected river basin, subbasin, or
11 reach until the department has made a final determination regarding
12 whether the river basin, subbasin, or reach is fully appropriated
13 and, if the department's final determination is that the river
14 basin, subbasin, or reach is fully appropriated, shall remain in
15 effect as provided in subsection (12) of this section. Within the
16 time period between the dates of the preliminary and final
17 determinations, the department and the affected natural resources
18 districts shall consult with any irrigation district, reclamation
19 district, public power and irrigation district, mutual irrigation
20 company, canal company, or municipality that relies on water from
21 the affected river basin, subbasin, or reach and with other water
22 users and stakeholders as deemed appropriate by the department or
23 the natural resources districts. The department shall also hold
24 one or more public hearings not more than ninety days after the
25 first publication of the notice required by subsection (1) of this
26 section. Notice of the hearings shall be provided in the same
27 manner as the notice required by such subsection. Any interested
28 person may appear at such hearing and present written or oral

1 testimony and evidence concerning the appropriation status of the
2 river basin, subbasin, or reach, the department's preliminary
3 conclusions about the extent of the area within which the surface
4 water and ground water supplies for the river basin, subbasin, or
5 reach are determined to be hydrologically connected, and whether
6 the stays on new uses should be terminated.

7 (5) Within thirty days after the final hearing under
8 subsection (4) of this section, the department shall notify the
9 appropriate natural resources districts of the department's final
10 determination with respect to the appropriation status of the river
11 basin, subbasin, or reach. If the final determination is that the
12 river basin, subbasin, or reach is fully appropriated, the
13 department, at the same time, shall (a) decide whether to continue
14 or to terminate the stays on new surface water uses and on
15 increases in the number of surface water irrigated acres and (b)
16 designate the geographic area within which the department considers
17 surface water and ground water to be hydrologically connected in
18 the river basin, subbasin, or reach and describe the methods and
19 criteria used in making that determination. The department shall
20 provide notice of its decision to continue or terminate the stays
21 in the same manner as the notice required by subsection (1) of this
22 section.

23 (6) If the department's final determination is that the
24 river basin, subbasin, or reach is not fully appropriated, the
25 department shall provide notice of such determination as provided
26 in subsection (1) of this section, the stays imposed pursuant to
27 subsections (1) and (2) of this section shall terminate
28 immediately, and no further action pursuant to subsections (7)

1 through (12) of this section and sections 55 to 59 of this act
2 shall be required.

3 (7) Within ninety days after a final determination by the
4 department that a river basin, subbasin, or reach is fully
5 appropriated, an affected natural resources district may hold one
6 or more public hearings on the question of whether the stays on the
7 issuance of new water well permits, on the construction of new
8 water wells, or on increases in ground water irrigated acres should
9 be terminated. Notice of the hearings shall be published as
10 provided in section 83 of this act.

11 (8) Within forty-five days after a natural resources
12 district's final hearing pursuant to subsection (7) of this
13 section, the natural resources district shall decide (a) whether to
14 terminate the stay on new water wells in all or part of the natural
15 resources district subject to the stay and (b) whether to terminate
16 the stay on increases in ground water irrigated acres. If the
17 natural resources district decides not to terminate the stay on new
18 water wells in any geographic area, it shall also decide whether to
19 exempt from such stay the construction of water wells for which
20 permits were issued prior to the issuance of the stay but for which
21 construction had not begun prior to issuance of the stay. If
22 construction of water wells for which permits were issued prior to
23 the stay is allowed, all permits that were valid when the stay went
24 into effect shall be extended by a time period equal to the length
25 of the stay.

26 (9) Whenever the department designates a river basin,
27 subbasin, or reach as overappropriated, each previously declared
28 moratorium on the issuance of new surface water appropriations in

1 the river basin, subbasin, or reach shall continue in effect. The
2 department shall also provide prompt notice of such designation to
3 all licensed water well contractors in the state and to each
4 natural resources district that encompasses any of the geographic
5 area involved. Immediately upon receipt of such notice by a
6 natural resources district, there shall be a stay on the issuance
7 of new water well construction permits in any portion of such
8 natural resources district that is within the hydrologically
9 connected area designated by the department. The department shall
10 also notify the public of its designation of such river basin,
11 subbasin, or reach as overappropriated and of the geographic area
12 involved in such designation. Such notice shall be published once
13 each week for three consecutive weeks in at least one newspaper of
14 statewide circulation and in such other newspapers as are deemed
15 appropriate by the department to provide general notice in the
16 river basin, subbasin, or reach.

17 (10) Beginning ten days after the first publication of
18 notice under subsection (9) of this section in a newspaper of
19 statewide circulation, there shall also be stays (a) on the
20 construction of any new water well in the hydrologically connected
21 area if such construction has not commenced prior to such date and
22 if no permit for construction of the water well has been issued
23 previously by either the department or the natural resources
24 district, (b) on the use of an existing water well in the
25 hydrologically connected area to increase the number of acres
26 historically irrigated, and (c) on the use of an existing surface
27 water appropriation to increase the number of acres historically
28 irrigated in the affected area.

1 (11) Within ninety days after a designation by the
2 department of a river basin, subbasin, or reach as
3 overappropriated, a natural resources district that encompasses any
4 of the hydrologically connected area designated by the department
5 may hold one or more public hearings on the question of whether to
6 terminate the stays on (a) the construction of new water wells
7 within all or part of its portion of the hydrologically connected
8 area, (b) the issuance of new water well construction permits in
9 such area, or (c) the increase in ground water irrigated acres in
10 such area. Notice of any hearing for such purpose shall be
11 provided pursuant to section 83 of this act. Prior to the
12 scheduling of a natural resources district hearing on the question
13 of whether to terminate any such stay, the department and the
14 affected natural resources district shall consult with any
15 irrigation district, reclamation district, public power and
16 irrigation district, mutual irrigation company, canal company, or
17 municipality that relies on water from the affected river basin,
18 subbasin, or reach and with other water users and stakeholders as
19 deemed appropriate by the department or the natural resources
20 district.

21 (12) Any stay issued pursuant to this section shall
22 remain in effect until (a) the stay has been terminated pursuant to
23 subsection (5), (6), (8), or (11) of this section, (b) an
24 integrated management plan for the affected river basin, subbasin,
25 or reach has been adopted by the department and the affected
26 natural resources districts and has taken effect, (c) an integrated
27 management plan for the affected river basin, subbasin, or reach
28 has been adopted by the Interrelated Water Review Board and has

1 taken effect, (d) the department has completed a reevaluation
2 pursuant to subsection (2) of section 53 of this act and has
3 determined that the affected river basin, subbasin, or reach is not
4 fully appropriated or overappropriated, or (e) the stay expires
5 pursuant to this subsection. Such stay may be imposed initially
6 for not more than three years following the department's
7 designation of the river basin, subbasin, or reach as
8 overappropriated or the department's final determination that a
9 river basin, subbasin, or reach is fully appropriated and may be
10 extended thereafter on an annual basis by agreement of the
11 department and the affected natural resources district for not more
12 than two additional years if necessary to allow the development,
13 adoption, and implementation of an integrated management plan
14 pursuant to sections 55 to 59 of this act.

15 Sec. 55. (1) Whenever the Department of Natural
16 Resources has designated a river basin, subbasin, or reach as
17 overappropriated or has made a final determination that a river
18 basin, subbasin, or reach is fully appropriated, the natural
19 resources districts encompassing such river basin, subbasin, or
20 reach and the department shall jointly develop an integrated
21 management plan for such river basin, subbasin, or reach. The plan
22 shall be completed, adopted, and take effect within three years
23 after such designation or final determination unless the department
24 and the natural resources districts jointly agree to an extension
25 of not more than two additional years.

26 (2) In developing an integrated management plan, the
27 effects of existing and potential new water uses on existing
28 surface water appropriators and ground water users shall be

1 considered. An integrated management plan shall include the
2 following: (a) Clear goals and objectives with a purpose of
3 sustaining a balance between water uses and water supplies so that
4 the economic viability, social and environmental health, safety,
5 and welfare of the river basin, subbasin, or reach can be achieved
6 and maintained for both the near term and the long term; (b) a map
7 clearly delineating the geographic area subject to the integrated
8 management plan; (c) one or more of the ground water controls
9 authorized for adoption by natural resources districts pursuant to
10 section 79 of this act; and (d) one or more of the surface water
11 controls authorized for adoption by the department pursuant to
12 section 56 of this act. The plan may also provide for utilization
13 of any applicable incentive programs authorized by law. Nothing in
14 the integrated management plan for a fully appropriated river
15 basin, subbasin, or reach shall require a natural resources
16 district to regulate ground water uses in place at the time of the
17 department's preliminary determination that the river basin,
18 subbasin, or reach is fully appropriated, but a natural resources
19 district may voluntarily adopt such regulations.

20 (3) The ground water and surface water controls proposed
21 for adoption in the integrated management plan pursuant to
22 subsection (1) of this section shall, when considered together and
23 with any applicable incentive programs, (a) be consistent with the
24 goals and objectives of the plan, (b) be sufficient to ensure that
25 the state will remain in compliance with applicable state and
26 federal laws and with any applicable interstate water compact or
27 decree or other formal state contract or agreement pertaining to
28 surface water or ground water use or supplies, and (c) protect the

1 ground water users whose water wells are dependent on recharge from
2 the river or stream involved and the surface water appropriators on
3 such river or stream from streamflow depletion caused by surface
4 water uses and ground water uses begun after the date the river
5 basin, subbasin, or reach was designated as overappropriated or was
6 preliminarily determined to be fully appropriated in accordance
7 with section 53 of this act.

8 (4) (a) In any river basin, subbasin, or reach that is
9 designated as overappropriated, when the designated area lies
10 within two or more natural resources districts, the department and
11 the affected natural resources districts shall jointly develop a
12 basin-wide plan for the area designated as overappropriated. Such
13 plan shall be developed using the consultation and collaboration
14 process described in subdivision (b) of this subsection, shall be
15 developed concurrently with the development of the integrated
16 management plan required pursuant to subsections (1) through (3) of
17 this section, and shall be designed to achieve, in the incremental
18 manner described in subdivision (d) of this subsection, the goals
19 and objectives described in subsection (2) of this section. The
20 basin-wide plan shall be adopted after hearings by the department
21 and the affected natural resources districts.

22 (b) In any river basin, subbasin, or reach designated as
23 overappropriated and subject to this subsection, the department and
24 each natural resources district encompassing such river basin,
25 subbasin, or reach shall jointly develop an integrated management
26 plan for such river basin, subbasin, or reach pursuant to
27 subsections (1) through (3) of this section. Each integrated
28 management plan for a river basin, subbasin, or reach subject to

1 this subsection shall be consistent with any basin-wide plan
2 developed pursuant to subdivision (a) of this subsection. Such
3 integrated management plan shall be developed after consultation
4 and collaboration with irrigation districts, reclamation districts,
5 public power and irrigation districts, mutual irrigation companies,
6 canal companies, and municipalities that rely on water from within
7 the affected area and that, after being notified of the
8 commencement of the plan development process, indicate in writing
9 their desire to participate in such process. In addition, the
10 department or the affected natural resources districts may include
11 designated representatives of other stakeholders. If agreement is
12 reached by all parties involved in such consultation and
13 collaboration process, the department and each natural resources
14 district shall adopt the agreed-upon integrated management plan.
15 If agreement cannot be reached by all parties involved, the
16 integrated management plan shall be developed and adopted by the
17 department and the affected natural resources district pursuant to
18 sections 55 to 58 of this act or by the Interrelated Water Review
19 Board pursuant to section 59 of this act.

20 (c) Any integrated management plan developed under this
21 subsection shall identify the overall difference between the
22 current and fully appropriated levels of development. Such
23 determination shall take into account cyclical supply, including
24 drought, identify the portion of the overall difference between the
25 current and fully appropriated levels of development that is due to
26 conservation measures, and identify the portions of the overall
27 difference between the current and fully appropriated levels of
28 development that are due to water use initiated prior to July 1,

1 1997, and to water use initiated on or after such date.

2 (d) Any integrated management plan developed under this
3 subsection shall adopt an incremental approach to achieve the goals
4 and objectives identified under subdivision (2)(a) of this section
5 using the following steps:

6 (i) The first incremental goals shall be to address the
7 impact of streamflow depletions to (A) surface water appropriations
8 and (B) water wells constructed in aquifers dependent upon recharge
9 from streamflow, to the extent those depletions are due to water
10 use initiated after July 1, 1997, and, unless an interstate
11 cooperative agreement for such river basin, subbasin, or reach is
12 no longer in effect, to prevent streamflow depletions that would
13 cause noncompliance by Nebraska with such interstate cooperative
14 agreement. During the first increment, the department and the
15 affected natural resources districts shall also pursue voluntary
16 efforts, subject to the availability of funds, to offset any
17 increase in streamflow depletive effects that occur after July 1,
18 1997, but are caused by ground water uses initiated prior to such
19 date. The department and the affected natural resources districts
20 may also use other appropriate and authorized measures for such
21 purpose;

22 (ii) The department and the affected natural resources
23 districts may amend an integrated management plan subject to this
24 subsection (4) as necessary based on an annual review of the
25 progress being made toward achieving the goals for that increment;

26 (iii) During the ten years following adoption of an
27 integrated management plan developed under this subsection (4) or
28 during the ten years after the adoption of any subsequent increment

1 of the integrated management plan pursuant to subdivision (d) (iv)
2 of this subsection, the department and the affected natural
3 resources district shall conduct a technical analysis of the
4 actions taken in such increment to determine the progress towards
5 meeting the goals and objectives adopted pursuant to subsection (2)
6 of this section. The analysis shall include an examination of (A)
7 available supplies and changes in long-term availability, (B) the
8 effects of conservation practices and natural causes, including,
9 but not limited to, drought, and (C) the effects of the plan on
10 reducing the overall difference between the current and fully
11 appropriated levels of development identified in subdivision (4) (c)
12 of this section. The analysis shall determine whether a subsequent
13 increment is necessary in the integrated management plan to meet
14 the goals and objectives adopted pursuant to subsection (2) of this
15 section and reduce the overall difference between the current and
16 fully appropriated levels of development identified in subdivision
17 (4) (c) of this section;

18 (iv) Based on the determination made in subdivision
19 (d) (iii) of this subsection, the department and the affected
20 natural resources districts, utilizing the consultative and
21 collaborative process described in subdivision (b) of this
22 subsection, shall if necessary identify goals for a subsequent
23 increment of the integrated management plan. Subsequent increments
24 shall be completed, adopted, and take effect not more than ten
25 years after adoption of the previous increment; and

26 (v) If necessary, the steps described in subdivisions
27 (d) (ii) through (iv) of this subsection shall be repeated until the
28 department and the affected natural resources districts agree that

1 the goals and objectives identified pursuant to subsection (2) of
2 this section have been met and the overall difference between the
3 current and fully appropriated levels of development identified in
4 subdivision (4)(c) of this section has been addressed so that the
5 river basin, subbasin, or reach has returned to a fully
6 appropriated condition.

7 Sec. 56. (1) The surface water controls that may be
8 included in an integrated management plan and may be adopted by the
9 Department of Natural Resources are: (a) Increased monitoring and
10 enforcement of surface water diversion rates and amounts diverted
11 annually; (b) the prohibition or limitation of additional surface
12 water appropriations; (c) requirements for surface water
13 appropriators to apply or utilize reasonable conservation measures
14 consistent with good husbandry and other requirements of section
15 46-231 and consistent with reasonable reliance by other surface
16 water or ground water users on return flows or on seepage to the
17 aquifer; and (d) other reasonable restrictions on surface water use
18 which are consistent with the intent of section 55 of this act and
19 the requirements of section 46-231.

20 (2) If during the development of the integrated
21 management plan the department determines that surface water
22 appropriators should be required to apply or utilize conservation
23 measures or that other reasonable restrictions on surface water use
24 need to be imposed, the department's portion of the integrated
25 management plan shall allow the affected surface water
26 appropriators and surface water project sponsors a reasonable
27 amount of time, not to exceed one hundred eighty days unless
28 extended by the department, to identify the conservation measures

1 to be applied or utilized; to develop a schedule for such
2 application and utilization, and to comment on any other proposed
3 restrictions.

4 Sec. 57. (1) In developing an integrated management
5 plan, the Department of Natural Resources and the affected natural
6 resources districts shall utilize the best scientific data and
7 other information available and shall review and consider any rules
8 and regulations in effect in any existing ground water management
9 area that encompasses all or part of the geographic area to be
10 encompassed by the plan. Consideration shall be given to the
11 applicable scientific data and other information relied upon by the
12 department in preparing the annual report required by section 53 of
13 this act and to other types of data and information that may be
14 deemed appropriate by the department. The department, after
15 seeking input from the affected natural resources districts, shall
16 specify by rule and regulation the types of scientific data and
17 other information that will be considered in developing an
18 integrated management plan. The natural resources districts shall
19 adopt similar rules and regulations specifying the types of
20 scientific data and other information necessary for purposes of
21 this section. Existing research, data, studies, or any other
22 relevant information which has been compiled by or is in possession
23 of other state or federal agencies, other natural resources
24 districts, and other political subdivisions within the State of
25 Nebraska shall be utilized. State agencies and political
26 subdivisions shall furnish information or data upon request of the
27 department or any affected natural resources district. Neither the
28 department nor the natural resources districts shall be required to

1 conduct new research or to develop new computer models to prepare
2 an integrated management plan, but such new research may be
3 conducted or new computer models developed within the limits of
4 available funding if the additional information is desired by the
5 department or the affected natural resources districts.

6 (2) During preparation of an integrated management plan
7 for a fully appropriated river basin, subbasin, or reach, the
8 department and the affected natural resources districts shall
9 consult with any irrigation district, reclamation district, public
10 power and irrigation district, mutual irrigation company, canal
11 company, or municipality that relies on water from the affected
12 river basin, subbasin, or reach and with other water users and
13 stakeholders as deemed appropriate by the department or by the
14 affected natural resources districts. They shall also actively
15 solicit public comments and opinions through public meetings and
16 other means.

17 Sec. 58. (1) If the Department of Natural Resources and
18 the affected natural resources districts preparing an integrated
19 management plan reach agreement on (a) the proposed goals and
20 objectives of the plan for the affected river basin, subbasin, or
21 reach, (b) the proposed geographic area to be subject to controls,
22 and (c) the surface water and ground water controls and any
23 incentive programs that are proposed for adoption and
24 implementation in the river basin, subbasin, or reach, they shall
25 schedule one or more public hearings to take testimony on the
26 proposed integrated management plan and the proposed controls.
27 Such hearings shall be held within forty-five days after reaching
28 agreement and within or in reasonable proximity to the area to be

1 affected by implementation of the integrated management plan.
2 Notice of such hearings shall be published as provided in section
3 83 of this act. The costs of publishing the notice shall be shared
4 between the department and the affected natural resources
5 districts. All interested persons may appear at the hearings and
6 present testimony or provide other evidence relevant to the issues
7 being considered.

8 (2) Within sixty days after the final hearing under this
9 section, the department and the affected natural resources
10 districts shall jointly decide whether to implement the plan
11 proposed, with or without modifications, and whether to adopt and
12 implement the surface water and ground water controls and incentive
13 programs proposed in the plan. If the department and the natural
14 resources districts agree to implement the plan and to adopt and
15 implement the proposed controls, the natural resources districts
16 shall by order designate a ground water management area for
17 integrated management or, if the geographic area subject to the
18 integrated management plan is already in a ground water management
19 area, the order shall designate an integrated management subarea
20 for that area. The order shall include a geographic and
21 stratigraphic definition of the ground water management area or
22 integrated management subarea and shall adopt the controls in the
23 integrated management plan that are authorized for adoption by the
24 natural resources district pursuant to section 79 of this act. The
25 department shall by order adopt the controls in the integrated
26 management plan that are authorized for adoption by the department
27 pursuant to section 56 of this act. Neither the controls adopted
28 by the district nor those adopted by the department shall include

1 controls substantially different from those set forth in the notice
2 of hearing. The area designated as a ground water management area
3 or an integrated management subarea by the natural resources
4 district shall not include any area that was not identified in the
5 notice of the hearing as within the area proposed to be subject to
6 the controls in the plan. The department and the natural resources
7 district shall each cause a copy of its order to be published in
8 the manner provided in section 84 of this act.

9 (3) If at any time during the development of a basin-wide
10 plan or an integrated management plan either the department or the
11 affected natural resources districts conclude that the parties will
12 be unable to reach a timely agreement on the basin-wide plan or on
13 (a) the goals and objectives of the integrated management plan for
14 the affected river basin, subbasin, or reach, (b) the geographic
15 area to be subject to controls, or (c) the surface water or ground
16 water controls or any incentive programs to be proposed for
17 adoption and implementation in the affected river basin, subbasin,
18 or reach, the Governor shall be notified and the dispute shall be
19 submitted to the Interrelated Water Review Board as provided in
20 subsection (2) of section 59 of this act.

21 Sec. 59. (1) (a) The Interrelated Water Review Board is
22 created for the purposes stated in subsections (2) through (5) of
23 this section. The board shall consist of five members. The board,
24 when appointed and convened, shall continue in existence only until
25 it has resolved a dispute referred to it pursuant to such
26 subsections. The Governor shall appoint and convene the board
27 within forty-five days of being notified of the need to resolve a
28 dispute. The board shall be chaired by the Governor or his or her

1 designee, which designee shall be knowledgeable concerning surface
2 water and ground water issues. The Governor shall appoint one
3 additional member of his or her choosing and shall appoint the
4 other three members of the board from a list of no fewer than six
5 nominees provided by the Nebraska Natural Resources Commission
6 within twenty days after request by the Governor for a list of
7 nominees.

8 (b) Not more than two members of the board shall reside
9 in the geographic area involved in the dispute. A person is not
10 eligible for membership on the board if the decisions to be made by
11 the board would or could cause financial benefit or detriment to
12 the person, a member of his or her immediate family, or a business
13 with which the person is associated, unless such benefit or
14 detriment is indistinguishable from the effects of such action on
15 the public generally or a broad segment of the public. The board
16 shall be subject to the Open Meetings Act.

17 (c) For purposes of subsections (2) and (3) of this
18 section, action may be taken by a vote of three of the board's five
19 members. For purposes of subsections (4) and (5) of this section,
20 action may be taken only by a vote of at least four of the board's
21 five members.

22 (2) (a) If the Department of Natural Resources and the
23 affected natural resources districts cannot resolve disputes over
24 the content of a basin-wide plan or an integrated management plan
25 by utilizing the process described in sections 55 to 58 of this
26 act, the Governor shall be notified and the dispute submitted to
27 the Interrelated Water Review Board. When the board has been
28 appointed and convened to resolve disputes over a basin-wide plan,

1 the department and each affected district shall present their
2 proposed basin-wide plans to the board. When the board has been
3 convened to resolve disputes over an integrated management plan,
4 the department and each affected natural resources district shall
5 present their (i) proposed goals and objectives for the integrated
6 management plan, (ii) proposed geographic area to be subject to
7 controls, and (iii) proposed surface water and ground water
8 controls and any proposed incentive program for adoption and
9 implementation in the river basin, subbasin, or reach involved.
10 The department and each affected natural resources district shall
11 also be given adequate opportunity to comment on the proposals made
12 by the other parties to the dispute.

13 (b) When the Interrelated Water Review Board concludes
14 that the issues in dispute have been fully presented and commented
15 upon by the parties to the dispute, which conclusion shall be made
16 not more than forty-five days after the board is convened, the
17 board shall select the proposals or portions of proposals that the
18 board will consider for adoption and shall schedule one or more
19 public hearings to take testimony on the selected proposals. The
20 hearings shall be held within forty-five days after the board's
21 selection of proposals to consider for adoption and shall be within
22 or in reasonable proximity to the area that would be affected by
23 implementation of any of the proposals to be considered at the
24 hearings. Notice of the hearings shall be published as provided in
25 section 83 of this act. The cost of publishing the notice shall be
26 shared by the department and the affected natural resources
27 districts. All interested persons may appear at the hearings and
28 present testimony or provide other evidence relevant to the issues

1 being considered.

2 (c) Within forty-five days after the final hearing
3 pursuant to subdivision (b) of this subsection, the Interrelated
4 Water Review Board shall by order, as applicable, adopt a
5 basin-wide plan or an integrated management plan for the affected
6 river basin, subbasin, or reach and, in the case of an integrated
7 management plan, shall designate a ground water management plan for
8 integrated management or an integrated management subarea for such
9 river basin, subbasin, or reach. An integrated management plan
10 shall be consistent with subsection (2) of section 55 of this act,
11 and the surface water and ground water controls and any applicable
12 incentive programs adopted as part of that plan shall be consistent
13 with subsection (3) of section 55 of this act. The controls
14 adopted by the board shall not be substantially different from
15 those described in the notice of hearing. The area designated as a
16 ground water management area or an integrated management subarea
17 shall not include any area that was not identified in the notice of
18 the hearing as within the area proposed to be subject to the
19 controls in the plan.

20 (d) The order adopted under this subsection shall be
21 published in the manner prescribed in section 84 of this act.

22 (e) Surface water controls adopted by the Interrelated
23 Water Review Board shall be implemented and enforced by the
24 department. Ground water controls adopted by the Interrelated
25 Water Review Board shall be implemented and enforced by the
26 affected natural resources districts.

27 (3) Whether an integrated management plan is adopted
28 pursuant to section 58 of this act or by the Interrelated Water

1 Review Board pursuant to subsection (2) of this section, the
2 department or a natural resources district responsible in part for
3 implementation and enforcement of an integrated management plan may
4 propose modification of the goals or objectives of that plan, of
5 the area subject to the plan, or of the surface water controls,
6 ground water controls, or incentive programs adopted to implement
7 the plan. The department and the affected natural resources
8 districts shall utilize the procedures in sections 55 to 58 of this
9 act in an attempt to reach agreement on and to adopt and implement
10 proposed modifications. If agreement on such modifications cannot
11 be achieved utilizing those procedures, either the department or an
12 affected natural resources district may notify the Governor of the
13 dispute. The Interrelated Water Review Board shall be appointed
14 and convened in accordance with subsection (1) of this section to
15 resolve the dispute and, if applicable, to adopt any modifications
16 utilizing the procedures in subsection (2) of this section.

17 (4) The department and the affected natural resources
18 districts may also raise objections concerning the implementation
19 or enforcement of previously adopted surface water or ground water
20 controls. The department and the affected natural resources
21 districts shall utilize the procedures in sections 55 to 58 of this
22 act in an attempt to reach agreement on such implementation or
23 enforcement issues. If agreement on such issues cannot be achieved
24 utilizing such procedures, either the department or an affected
25 natural resources district may notify the Governor of the dispute.
26 The Interrelated Water Review Board shall be appointed and convened
27 in accordance with subsection (1) of this section. After
28 permitting each party to fully express its reasons for its position

1 on the disputed issues, the board may either take no action or
2 conclude (a) that one or more parties needs to modify its approach
3 to implementation or enforcement and direct that such modifications
4 take place or (b) that one or more parties either has not made a
5 good faith effort to implement or enforce the portion of the plan
6 or controls for which it is responsible or is unable to fully
7 implement and enforce such portion and that such party's
8 jurisdiction with respect to implementation and enforcement of the
9 plan and controls shall be terminated and reassigned to one or more
10 of the other parties responsible for implementation and
11 enforcement. A decision by the Interrelated Water Review Board to
12 terminate and reassign jurisdiction of any portion of the plan or
13 controls shall take effect immediately upon that decision. Notice
14 of such reassignment shall be published at least once in one or
15 more newspapers as necessary to provide general circulation in the
16 area affected by such reassignment.

17 (5) The board may be reconvened in accordance with
18 subsection (1) of this section at a later date upon request to the
19 Governor by the party for which jurisdiction for implementation and
20 enforcement was terminated if such party desires to have its
21 jurisdiction reinstated, but no such request shall be honored until
22 at least one year after the termination and not more than once per
23 year thereafter. The board may reinstate jurisdiction to that
24 party only upon a clear showing by such party that it is willing
25 and able to fully implement and enforce the plan and any applicable
26 controls. Notice that a party's jurisdiction has been reinstated
27 shall be provided in the same manner that notice of the earlier
28 termination was given.

1 Sec. 60. (1) The Legislature finds that, prior to the
2 operative date of this section, actions were taken by the
3 Department of Natural Resources and by one or more natural
4 resources districts pursuant to section 46-656.28, as such section
5 existed immediately prior to such date, for the purpose of
6 addressing circumstances that are, after such date, to be addressed
7 in accordance with sections 53 to 59 of this act. It is the intent
8 of the Legislature that actions taken pursuant to section
9 46-656.28, as such section existed immediately prior to the
10 operative date of this section, should not be negated and that
11 transition from the authorities and responsibilities granted by
12 such section to those granted by sections 53 to 59 of this act
13 should occur in as efficient a manner as possible. Such transition
14 shall be therefor governed by subsections (2) through (5) of this
15 section, and all references in such subsections to section
16 46-656.28 shall be construed to mean section 46-656.28 as such
17 section existed immediately prior to the operative date of this
18 section.

19 (2) If, prior to the operative date of this section, (a)
20 a natural resources district requested pursuant to subsection (1)
21 of section 46-656.28 that affected appropriators, affected surface
22 water project sponsors, and the department consult and that studies
23 and a hearing be held but (b) the Director of Natural Resources has
24 not made a preliminary determination relative to that request
25 pursuant to subsection (2) of section 46-656.28, no further action
26 on the district's request shall be required of the department. If
27 under the same circumstances a temporary suspension in the drilling
28 of certain water wells has been imposed by the district pursuant to

1 subsection (16) of section 46-656.28 and remains in effect
2 immediately prior to the operative date of this section, such
3 temporary suspension shall remain in effect for thirty days after
4 the department issues its first annual report under section 53 of
5 this act, except that (i) such temporary suspension shall not apply
6 to water wells for which a permit has been obtained pursuant to the
7 Municipal and Rural Domestic Ground Water Transfers Permit Act and
8 (ii) to the extent any such temporary suspension is in effect for
9 all or part of a hydrologically connected area for a river basin,
10 subbasin, or reach designated as overappropriated by the
11 department, such temporary suspension shall remain in effect only
12 until it is superseded by the stays imposed pursuant to subsections
13 (9) and (10) of section 54 of this act. To the extent that any
14 such temporary suspension applies to a geographic area
15 preliminarily considered by the department to have ground water
16 hydrologically connected to the surface water of a fully
17 appropriated river basin, subbasin, or reach, such temporary
18 suspension shall be superseded by the stays imposed pursuant to
19 subsections (1) and (2) of section 54 of this act.

20 (3) (a) If prior to the operative date of this section (i)
21 the director has made a preliminary determination pursuant to
22 subsection (2) of section 46-656.28 that there is reason to believe
23 that the use of hydrologically connected ground water and surface
24 water in a specific geographic area is contributing to or is in the
25 reasonably foreseeable future likely to contribute to any conflict,
26 dispute, or difficulty listed in such subsection, (ii) the director
27 has not made a determination pursuant to subsection (4) of section
28 46-656.28 that a joint action plan should not be prepared, and

1 (iii) preparation of a joint action plan pursuant to subsections
2 (5) through (9) of such section has not been completed, the
3 geographic area involved shall become subject to sections 53 to 59
4 of this act on the operative date of this section and the
5 department need not evaluate such geographic area in its first
6 annual report issued pursuant to section 53 of this act.

7 (b) For purposes of this subsection and section 54 of
8 this act and except as otherwise provided in this section, (i) the
9 operative date of this section shall result in the imposition in
10 any geographic area subject to this subsection of the stays
11 required by subsections (1) and (2) of section 54 of this act, (ii)
12 such stays shall be imposed in the manner required by such section,
13 and (iii) the operative date of this section shall be treated as if
14 it were the date of a departmental preliminary determination
15 pursuant to section 53 of this act that such area is a geographic
16 area within which ground water and surface water of a fully
17 appropriated river basin, subbasin, or reach are hydrologically
18 connected. Notwithstanding the other provisions of this
19 subsection, if a temporary suspension in the drilling of certain
20 new water wells has previously been imposed by the affected natural
21 resources district, (A) the stays on construction of new water
22 wells and on the increase in ground water irrigated acres shall be
23 limited in geographic extent to only that part of the affected area
24 within which the temporary suspension was in effect unless the
25 director determines that inclusion of additional area is necessary
26 because ground water and surface water are hydrologically connected
27 in such additional area and (B) the stays on construction of
28 certain new water wells shall not apply to a water well constructed

1 (iii) preparation of a joint action plan pursuant to subsections
2 (5) through (9) of such section has not been completed, the
3 geographic area involved shall become subject to sections 53 to 59
4 of this act on the operative date of this section and the
5 department need not evaluate such geographic area in its first
6 annual report issued pursuant to section 53 of this act.

7 (b) For purposes of this subsection and section 54 of
8 this act and except as otherwise provided in this section, (i) the
9 operative date of this section shall result in the imposition in
10 any geographic area subject to this subsection of the stays
11 required by subsections (1) and (2) of section 54 of this act, (ii)
12 such stays shall be imposed in the manner required by such section,
13 and (iii) the operative date of this section shall be treated as if
14 it were the date of a departmental preliminary determination
15 pursuant to section 53 of this act that such area is a geographic
16 area within which ground water and surface water of a fully
17 appropriated river basin, subbasin, or reach are hydrologically
18 connected. Notwithstanding the other provisions of this
19 subsection, if a temporary suspension in the drilling of certain
20 new water wells has previously been imposed by the affected natural
21 resources district, (A) the stays on construction of new water
22 wells and on the increase in ground water irrigated acres shall be
23 limited in geographic extent to only that part of the affected area
24 within which the temporary suspension was in effect unless the
25 director determines that inclusion of additional area is necessary
26 because ground water and surface water are hydrologically connected
27 in such additional area and (B) the stays on construction of
28 certain new water wells shall not apply to a water well constructed

1 in accordance with the terms of a water well construction permit
2 approved by the district prior to the operative date of this
3 section unless such well was subject to the district's temporary
4 suspension. If, prior to the operative date of this section, the
5 director has held a hearing on a report issued pursuant to
6 subsection (3) of section 46-656.28 but has not yet determined
7 whether a joint action plan should be prepared, no departmental
8 hearing shall be required pursuant to subsection (4) of section 54
9 of this act before a final determination is made about whether the
10 river basin, subbasin, or reach involved is fully appropriated.
11 If, prior to the operative date of this section, the director has
12 determined pursuant to subsection (4) of section 46-656.28 that a
13 joint action plan should be prepared, such determination shall have
14 the same effect as a final departmental determination pursuant to
15 subsection (5) of section 54 of this act that the affected river
16 basin, subbasin, or reach is fully appropriated and no separate
17 determination to that effect shall be required. If, after the
18 operative date of this section, the department determines that all
19 or part of the area subject to this subsection is in an
20 overappropriated river basin, subbasin, or reach, that portion of
21 the area shall thereafter be subject to the provisions of the
22 Nebraska Ground Water Management and Protection Act applicable to
23 an overappropriated river basin, subbasin, or reach and stays that
24 have previously taken effect in accordance with this subsection
25 shall continue in effect as stays for an overappropriated river
26 basin, subbasin, or reach without additional action or publication
27 of notice by the department. Any temporary suspension in the
28 drilling of certain water wells that has been imposed in the

1 geographic area involved by a natural resources district pursuant
2 to subsection (16) of section 46-656.28 prior to the operative date
3 of this section shall remain in effect until superseded by the
4 stays imposed pursuant to subsections (1) and (2) of section 54 of
5 this act.

6 (4) If, prior to the operative date of this section,
7 preparation of a joint action plan has been completed pursuant to
8 subsections (5) through (9) of section 46-656.28 but the plan has
9 not yet been adopted pursuant to subsection (11) of such section,
10 the department need not evaluate the affected geographic area in
11 its first annual report issued pursuant to section 53 of this act.
12 The department and the affected natural resources district shall
13 review the completed joint action plan for its compliance with
14 sections 55 to 57 of this act. If the joint action plan is
15 determined to be in compliance with sections 55 to 57 of this act
16 or if agreement is reached on the revisions necessary to bring it
17 into such compliance, the department and the district shall adopt
18 the plan and implement the controls as provided in section 58 of
19 this act. If the joint action plan is determined not to be in
20 compliance with sections 55 to 57 of this act and agreement on the
21 proposed plan or the proposed controls cannot be reached pursuant
22 to section 58 of this act, section 59 of this act shall apply.
23 Except to the extent that any portion of the affected area is
24 designated as all or part of an overappropriated river basin,
25 subbasin, or reach, any temporary suspension in the drilling of
26 certain water wells imposed in the affected geographic area by a
27 natural resources district pursuant to subsection (16) of section
28 46-656.28 shall remain in effect until (a) the department and the

1 affected district have jointly decided to implement the plan, with
2 or without modifications, and controls have been adopted and taken
3 effect or (b) the Interrelated Water Review Board, pursuant to
4 section 59 of this act, has adopted an integrated management plan
5 for the affected river basin, subbasin, or reach and the controls
6 adopted by the board have taken effect. To the extent that any
7 portion of the affected area is designated as all or part of an
8 overappropriated river basin, subbasin, or reach, any temporary
9 suspension in the drilling of water wells shall be superseded by
10 the stays imposed pursuant to subsections (9) and (10) of section
11 54 of this act.

12 (5) If, before the operative date of this section, a
13 joint action plan has been adopted and implemented pursuant to
14 subsections (10) through (12) of section 46-656.28 and is in effect
15 immediately prior to such date, the department need not evaluate
16 the geographic area subject to the plan in the department's first
17 annual report issued pursuant to section 53 of this act. For
18 purposes of the Nebraska Ground Water Management and Protection
19 Act, (a) the plan adopted shall be considered an integrated
20 management plan adopted pursuant to section 58 of this act, (b) the
21 management area designated shall be considered an integrated
22 management area or subarea designated pursuant to section 58 of
23 this act, and (c) the controls adopted shall be considered controls
24 adopted pursuant to section 58 of this act and shall remain in
25 effect until amended or repealed pursuant to section 58 or 59 of
26 this act.

27 Sec. 61. Section 46-656.35, Reissue Revised Statutes of
28 Nebraska, is amended to read:

North Platte Valley Fact Sheet

- ✓ Early irrigation began in the mid-1890's. Most of the lands being irrigated were located adjacent to the river, which did not require lengthy canals to carry the water. Crops grown at that time were alfalfa, grass and small grains due to the lack of a reliable late season water supply. With the development of the federal storage facilities in Wyoming, farmers were able to expand to crops such as corn, sugar beets, and dry edible beans.
- ✓ Storage water for the valley is provided under 3 different federal contracts.

District	Contract Type	Acres	Total
Goshen Irrigation (WY)	Gov. Project	52,484	
Gering-Ft. Laramie (NE)	Gov. Project	54,845	
Northport Irrigation (NE)	Gov. Project	16,170	
Pathfinder Irrigation (NE)	Gov. Project	102,824	
			226,323
Farmers Irrigation (NE)	Warren Act	61,379	
Gering Irrigation (NE)	Warren Act	13,345	
Beerline Canal (NE)	Warren Act	2,080	
Brown's Creek Canal (NE)	Warren Act	6,134	
Central Irrigation (NE)	Warren Act	2,092	
Chimney Rock Irrigation (NE)	Warren Act	5,222	
Lingle Water Users (WY)	Warren Act	11,717	
Hill Irrigation (WY)	Warren Act	3,650	
Rock Ranch (WY)	Warren Act	950	
	Warren Act		106,569
Bridgeport Canal (NE)	Glendo	6,510	
Enterprise Irrigation (NE)	Glendo	7,585	
Mitchell Irrigation (NE)	Glendo	12,800	
Burbank Canal (WY)	Glendo	360	
Lucerne Canal (WY)	Glendo	4,423	
New Gratton Canal (WY)	Glendo	1,320	
Torrington Canal (WY)	Glendo	2,440	
Wright & Murphy (WY)	Glendo	103	
			35,541
Total Acres:			368,433

- ✓ There are also 12 districts comprising 48,202 acres between Whalen Dam and Lewellen that are strictly natural flow users with no storage rights.
- ✓ Water distribution and usage from the North Platte River is controlled under state granted water rights, federal contracts and a United States Supreme Court Decree.

Canals listed by sections from NPR Passing Tri-State Diversion Dam to Kearney

Districts	Permitted diversion	Priority
ENTERPRISE	133 CFS	3-28-1889
WINTERS CREEK FR NPR	87.5 CFS	10-18-1888
CENTRAL	33 CFS	6-23-1890
MINATARE	117 CFS	1-14-1888
CASTLE ROCK	88 CFS	4-18-1889
TOTAL	459 CFS	

NORTH PLATTE RIVER @ MINATARE

NINE MILE	105 CFS	12-6-1893
SHORT LINE	53 CFS	5-1-1893
CHIMNEY ROCK	60 CFS	12-3-1890
ALLIANCE BAYARD CREEK	36 CFS	12-26-1892

(below BELMONT) ALLIANCE CANAL

RED WILLOW CREEK	54 CFS	12-26-1892
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BELMONT	92 CFS	12-19-1889
EMPIRE	29 CFS	6-25-1891

TOTAL 428 CFS

NORTH PLATTE RIVER @ BRIDGEPORT

BROWNS CREEK	88 CFS	1-20-1892
BEERLINE	14 CFS	10-13-1894
LISCO	54 CFS	7-1-1893

TOTAL 156 CFS

NORTH PLATTE RIVER @ LISCO

MIDLAND-OVERLAND	24 CFS	6-9-1894
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Districts	Permitted diversion	Priority
BLUE CREEK (Diversion)		
UNION	15.5 CFS	5-16-1890
BLUE CREEK (HOOPER)	10.9 CFS	9-7-1893
(GRAF)	10.5 CFS	4-2-1894
BLUE CR D-785	32.8 CFS	12-27-1893
D-795	5 CFS	9-27-1894
A-1154	0.4 CFS	1-4-1912
A-16819	0.1 CFS	6-12-1989
A-16995	0.1 CFS	6-4-1990
PAISLEY	D-880 11.8 CFS	11-20-1894
	A-515 1.37 CFS	7-14-1899
	A-1738 2.19 CFS	2-25-1924
TOTAL	115 CFS	
NORTH PLATTE RIVER @ LEWELLEN		
NEED 198 CFS NORTH PLATTE CANAL		
KEITH-LINCOLN	81 CFS	2-2-1894
NORTH PLATTE	198 CFS	5-13-1884
PAXTON-HERSHEY	103 CFS	2-12-1894
TOTAL	382 CFS	
NORTH PLATTE RIVER @ SUTHERLAND		
BIRDWOOD	44 CFS	10-21-1893
SUBURBAN	78 CFS	5-22-1894
ON SUBURBAN WATCH IF ON STORAGE CK FLOW IN BIRDWOOD CR		
CODY-DILLON	58.08	12-29-1893
TOTAL 180 CFS		
NORTH PLATTE RIVER @ NORTH PLATTE		
TRI-COUNTY	630 CFS	1-13-1934

PLATTE RIVER @ MEXWELL

GOTHENBURG	D-645A	14 CFS	7-5-1890
	D-622R	1.23 CFS	6-26-1894
	D-645B	238 CFS	9-22-1894
THIRTY MILE		275 CFS	9-7-1926
SIX MILE		24 CFS	10-22-1894
COZAD		235 CFS	12-28-1894
ORCHARD-ALFALFA		84 CFS	1-23-1895
DAWSON-COUNTY		377 CFS	6-26-1894
	TOTAL	1242 CFS	

PLATTE RIVER @ COZAD
J-2 RETURN

PLATTE RIVER @ OVERTON

KEARNEY	22 CFS	9-10-1882
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Total cfs needed from State Line to Lewellen is 1363 cfs

Canals above Tri State Diversion Dam

District	Permitted diversion CFS	Priority
Pathfinder	1469	09-19-1904 A-768 Government Const.
Gering Fort Laramie	780	09-19-1904 A-768 Government Const
Mitchell	192	06-20-1890 Glendo Contractor
Gering	187	03-15-1897 Warren Act Contractor
Farmers	912	09-16-1887 Warren Act Contractor
Northport	230	09-19-1904 A-768 Government Const