

Ann Diers

From: Andrea Kessler [akessler@dnr.state.ne.us]
Sent: Wednesday, July 13, 2005 7:05 AM
To: Ann Bleed (E-mail); Brian Barels (E-mail); Curt Friesen (E-mail); Dan Crouchley (E-mail); Dan Smith (E-mail); Dave Cookson (E-mail); Don Kraus (E-mail); Eugene Glock (E-mail); Gary Mader (E-mail); John Turnbull (E-mail 2); Pat Heath (E-mail); Roger Patterson (E-mail); Ron Bishop (E-mail); Steve Huggenberger (E-mail); Ted Cook (E-mail); Tina Kurtz (E-mail)
Cc: Don Blankenau (E-mail); Ann Diers (E-mail)
Subject: Municipal Subcommittee

As a reminder, the Municipal Subcommittee of the WPTF will be meeting Thursday, July 14 at 9:30 at the Upper Big Blue NRD Office in York.

The address is 105 Lincoln Avenue. Their phone number is: 402.362.6601

I have also been asked by Dave Cookson of the Attorney General's Office to forward the attached document to you. Please be advised that the attached is for discussion purposes.

If you have any questions, please call me.

Thanks,

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DNR 014670

MUNICIPAL WATER SOLUTIONS

For purposes of discussion, we have developed a multi-pronged approach to the water concerns of municipal suppliers. This approach utilizes: (1) DNR agency rules/regulations to create a baseline of use for those areas of Nebraska that have not been designated as fully or over-appropriated. This baseline will include limited future increases in use and protect those projected increases; and (2) statutorily established minimum allocations for those areas that have been designated as full or over-appropriated. These minimum allocations shall also protect all water transfer permits. In concept, both approaches are as follows:

I. Rule/Regulation concerning municipalities not located in a fully or over-appropriated basin.

The DNR will be adopting rules/regulations to implement LB 962. These rules/regulations will, among other things, specify how a basin, stream reach or segment is to be evaluated for purposes of being determined fully or over-appropriated. We suggest that the DNR use the greater of either (1) the cumulative groundwater transfer permits for each municipal water provider or (2) the projected future uses for each municipal water provider to establish a baseline of use. The period into the future used to project growth shall be no less than 20 years. Once a basin, subbasin or reach has been designated as fully appropriated, these volumes of water would serve as the baseline for existing uses which will be allowed to continue into the future. Natural Resources Districts ("NRDs") would remain free to establish allocations above these amounts if they so desire. No emergency uses of water, such as fire protection, shall be subject to an allocation.

Example:¹ The City of Fremont may have an existing ground water transfer permit that allows it to use and transfer 20% more water than it presently uses. The City's growth pattern may also suggest that it will increase its water use by 25% over the next 20 year period. The DNR will use this information to determine whether that portion of the Platte River is fully appropriated. If that portion is fully appropriated, the City's baseline use will be determined to be the greater of either its transfer permit or projected growth. Any resulting allocations from the Natural Resources District that may result from the designation will not be less than the baseline. The NRD could create a larger allocation if it so desires.

II. Acreage Allocation within an area that has been designated as fully or over-appropriated.

In contrast to I. above, this approach will set forth by statute a minimum allocation for those areas that have been designated as fully or over-appropriated. In an effort to create an appropriate level of equality, that land area of each municipality, including any areas served outside the corporate limits, shall be given an allocation that is equal to a similar tract of irrigated agricultural land. Because water for human needs is critical and because municipalities provide services and recreational opportunities to those persons in rural areas, these acreage allocations will not be less than less than 13 acre-inches/acre. NRDs may establish larger allocations if they do desire. If the municipality holds a ground water transfer permit that provides for the withdrawal and transfer of a larger volume of water than an acreage allocation, the allocation

¹ The numbers used in this and the following example are fictional and are intended to be illustrative.

will not be less than the cumulative ground water transfer permits allow. No emergency uses of water, such as fire protection, shall be subject to any allocation.

Example: The City of Ogallala lies within the over-appropriated portion of the Platte River Basin. The City may have a land area of 1000 acres and 2 ground water transfer permits. The minimum annual allocation the City will receive is the greater of 13,000 acre inches of water (353,005,250 gallons) or the cumulative amount of its two ground water transfer permits. The NRD would retain the option of granting a greater allocation if it so desired.