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AGENDA

Water Policy Task Force Water Rights Subcommittee

1:30 p.m. July 28, 2005

Department of Natural Resources, Lincoln

1. Municipal Transfers - refer to municipal subcommittee
2. Review of interbasin transfer requirements, 46-294 1(c)
3. Review of provision for transfers dependent on an another district's facilities 46-2941(g)
4. Other issues in document one
5. Rules pertaining to changes in point of diversion (time permitting)

Ann Diers

From: Ann Bleed [ableed@dnr.state.ne.us]
Sent: Monday, July 25, 2005 4:25 PM
To: Tom Schwarz; Susan France; Steve Gaul; Steven Huggenberger; Roger Patterson; Larry Hutchinson; James Nelson; Frank Albrecht; Dave Sands; Don Kraus; Dennis Strauch; Brian Barels; Ann Diers
Subject: Meeting 1:30 Thursday July 28 at DNR
Importance: Low



LB962 Fixes5.doc Proposal from Allan
(164 KB)



Schmidt an...



LB 962



WRsubcommittee

RECOMMENDATIONS for AGENDA - 7-28-0...

Enclosed are three documents:

Document 1) A slight revision of the document sent out June 16th which have two added items:

46-691.03 Transfer off overlying land for environmental or recreational benefits: (p. 23 of the document, which adds references to other parts of the statutes and

61-205 (p. 32) which allows DNR to have access to check flow meters;

Document 2) A proposal from Al Schmidt and Brian Barels pertaining to 46-294-1(g) - pertaining to transfers involving the uses of another entities facilities.

Document 3) LB 962 Recommendations for requirements for changing points of diversion and showing no harm

Document 4) The Agenda

Please review Document 1 carefully. As you will see on the agenda, we will focus on a few items in the document but we will not go through each change one by one. We will not discuss each change unless someone has questions or concerns about any other statute changes. Also see the note on page 19 of Document 1.

If time permits, we will discuss the recommendations for changing the points of diversion.

See you all on Thursday. If anyone would like to participate by phone, please let Andrea Kesser know - 402-471-2366. Thanks Ann.

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Proposal from Allan Schmidt and Brian Barels

but

(g) If a ^{not} proposed transfer or change is of an appropriation that has been used for irrigation and is in the name of the irrigation district, public power and irrigation district, reclamation district or mutual irrigation or canal company ~~or~~ is dependent upon any such district's or company's facilities for water delivery, such district or company has approved the transfer or change;

etc.

(g) If a proposed transfer or change is of an appropriation that has been used for irrigation and is not in the name of an irrigation district but is dependent upon any such district's or company's facilities for water delivery such district or company has approve the transfer or change.

Need alternative

~~11174 - 11174~~ / one diversion
= notice < bridge or appropriation?

11174 to 11174 - notice
11174 to ~~source~~ else - approval
and to ~~cas~~ in pt of diversion from river
source of supply for dist

LB 962 RECOMMENDATIONS FOR REQUIREMENTS FOR CHANGING POINTS OF DIVERSION AND A SHOWING OF NO HARM.

June 2005

Susan France

The following are proposed rules on how to proceed with changes in the points of diversion and changes in the location of use that include changes in the points of diversion.

1. For changing the location of diversion—no matter whether they are changing the location of use of the appropriation, the following shall apply:
 - A. For those instances where the change in location of diversion meets all three of the following conditions, there shall be a rebuttable presumption that no harm will occur: (This applies only to the change in location of diversion—changes in location of use would have to be analyzed separately.)
 - i. Does not move the location above or below another appropriator, and
 - ii. Does not move the location upstream or downstream of a tributary source to the original source, and
 - iii. Does not move the location to a new source.
 - B. If someone wants to apply to move their location of diversion above or below another appropriator's diversion location, or to move their point of diversion to a different supply (examples: from one tributary to another tributary or from a tributary to the mainstem) the Applicant/Petitioner may:
 - i. Obtain the written agreement of all appropriator's lying between the current approved location of diversion and the proposed point of diversion, or
 - ii. Submit to the Department with the application/petition the plan on how the Applicant/Petitioner will assure that such move does not harm other appropriators, or
 - iii. Apply to have the priority date of the appropriation be changed to the date the relocation petition, transfer application, or change application was filed in the Department.

in stream that would not be new