

By Mark Christensen

44th District, Neb. Legislature

The Legislature is almost half way through this year's Legislative Session; we have completed 43 of the 90 Legislative Days as of Friday.

Senator, committee, and speaker priority designations and requests have all been handed in and we have begun debating those priority bills for this session.

Legislative Bill 522 is my senator priority bill. It is a bill I introduced that seeks to settle a state policy issue regarding the power and obligations the Department of Natural Resources (DNR) should have when sending closing notices to surface water appropriators and users during a compact call year.

Currently, surface water users in the Republican River Basin have been issued closing notices by DNR to prohibit the storing and diversion of such water, requiring it to pass through our dam projects to Kansas.

This is great for compliance with the Republican River Compact, but not so good if it is done without compensation for our local economy and future precedents.

LB 522 would require the state to compensate users when DNR issues closing notices to comply with a compact or decree.

Prior to this year, the state has paid for water users to forgo the use of surface water.

Recent precedent shows that in fiscal year 06-07, \$2.7 million from General Funds were expended specifically for the Nebraska Bostwick Irrigation District, along with a deficit appropriation in LB701 of \$3 million from the General Fund.

In addition to these expenditures, the state spent \$2.7 million out of the Water Resources Cash Fund in FY07-08 and \$1,483,640 in FY08-09.

Not compensating surface water users to forgo the use of water for compliance is a problematic change in policy for our area.

Economically, this puts more uncertainty on our producers from year to year, and potentially pits surface water users against groundwater users.

This could happen if a large rain event fills Harlan County Reservoir enough before June 30 allowing the Republican River Basin to avoid a water-short year designation.

In this scenario groundwater users would be able to pump, but surface water districts would have already let most of their water go down the stream, would not be able to irrigate, and have no compensation.

But, what also concerns me is if DNR can shut off surface water irrigation without compensation, then what is to stop them from shutting off groundwater irrigation without compensation.

If the argument is that the State owns surface water, so it has no obligation to compensate for water passing through to Kansas, then the same argument can be used with groundwater.

Economically, that precedent is unwise and bad for agriculture in Nebraska. It would definitely not be good news for southwest Nebraska, or in the future for the Platte River Basin.

In discussions with the Frenchman Cambridge Irrigation District, as of today, compensation would be approximately \$4 million for the water that has already passed through Hugh Butler, Swanson, Harry Strunk lakes that cannot be used.

This is based on current dry-year lease rates for converting irrigated acres to dry land acres for one year in the Lower Republican NRD.

I know these are tough questions to deal with, but I believe that we need to tackle this issue head on.

We need to decide as a state if we are going to compensate our water users to forgo the use of water or not.

Injecting uncertainty from year to year into our ag economy is not wise.

I believe requiring compensation is the honorable way to treat people, and requires the state to make sure it is necessary before sending closing notices to water users during a compact call year.

If you have any questions or comments, contact my office at the address or phone number below.

Senator MARK CHRISTENSEN's address is c/o State Capitol, P.O. Box 94604, Rm. 1000, Lincoln, NE 68509, Phone 402-471-2805, email: mchristensen@leg.ne.gov.