

LEGISLATIVE BILL 49

Approved by the Governor February 18, 1992

Introduced by Schmit, 23

AN ACT relating to water; to amend section 46-252, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to conducting water into or along natural streams or channels; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 46-252, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-252. (1) Any person may conduct, either from outside the state or from sources located in the state, quantities of water over and above those already present water into or along any of the natural streams or channels of this state, and may withdraw all such water for purposes of instream beneficial uses or withdrawal of some or all of such water for out-of-stream beneficial uses, at any point without regard to any prior appropriation of water from such stream, due allowance being made for losses in transit to be determined by the Department of Water Resources. The department shall monitor movement of the water by measurements or other means and shall be responsible for assuring that such quantities are not subsequently diverted or withdrawn by others unless they are authorized to do so by the person conducting the water.

Subject to the exceptions hereinafter stated (2) Except as provided in subsections (3) and (4) of this section, before any person may conduct water into or along any of the natural streams or channels of the state, he or she shall first obtain the consent in writing of the majority of the residents and landowners bordering upon such stream or channel. He a permit from the department. Application for the permit shall be made on forms provided by the department. Applications shall include plans and specifications detailing the intended times, amounts, and streamreach locations and such other information as required by the department. The water subject to such a permit shall be deemed appropriated for the use specified in the permit. Permitholders shall be liable for any damages resulting from the overflow of such stream or channel when water

so conducted contributed to such overflow.

(3) Any person actually engaged in the construction or operation of any water power plant may, without such written consent filing with the department and upon payment of all damages, use any such stream or channel for a tailrace or canal; and may, whenever necessary, widen, deepen, or straighten the bed of any such stream. All damages resulting therefrom shall be determined in the manner set forth in sections 76-704 to 76-724.

(4) Any person holding a storage use permit pursuant to section 46-242 shall not be required to obtain the permit required by this section.

(5) Nothing in this section shall be construed to exempt a person from obtaining any other permits required by law.

Sec. 2. That original section 46-252, Reissue Revised Statutes of Nebraska, 1943, is repealed.