

LEGISLATIVE BILL 818

Approved by the Governor March 12, 1984

Introduced by Schmit, 23

AN ACT relating to water resources; to amend sections 46-229 and 46-294, Revised Statutes Supplement, 1983; to change provisions relating to when an appropriation ceases; to change a condition for approval of transfer of an appropriation; and to repeal the original sections.

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

Section 1. That section 46-229, Revised Statutes Supplement, 1983, be amended to read as follows:

46-229. All appropriations for water must be for some beneficial or useful purpose, and, except as provided in sections 46-290 to 46-294, when the appropriator or his or her successor in interest ceases to use it for such purpose for more than three consecutive years, the right ceases.

Sec. 2. That section 46-294, Revised Statutes Supplement, 1983, be amended to read as follows:

46-294. The Director of Water Resources shall approve an application filed pursuant to section 46-290 if:

(1) The requested change of location is within the same river basin and will not adversely affect any other water appropriator and will not significantly adversely affect any riparian water user who files an objection in writing prior to the hearing;

(2) The requested change will use water from the same source of supply as the current use;

(3) The change of location will not diminish the supply of water otherwise available; quantity of water to be transferred to the new location will not exceed the amount consumptively used under the current use;

(4) The water will be applied to a use in the same preference category as the current use, as provided in section 46-204; and

(5) The requested change is in the public interest.

The applicant shall have the burden of proving that the change of location will comply with subdivisions (1) to (5) of this section, except that the burden shall be on the riparian user to demonstrate his or her riparian status and to demonstrate a significant adverse effect on his or her use in order to prevent approval of an application.

In approving an application, the director may

impose any reasonable conditions deemed necessary to protect the public interest. An approved change of location shall retain the same priority date as that of the original water right.

Sec. 3. That original sections 46-229 and 46-294, Revised Statutes Supplement, 1983, are repealed.