

you see that as part of the amendment?

SENATOR ELMER: Senator Dierks, I see this amendment as strengthening the thought that all appropriations, whether from surface or ground water usage, be appropriated on a first-in-time, first-in-right basis. And that ground water used from an aquifer would be treated as a water diversion just as a surface water diversion is, and a ground...and a diversion right would have to be granted.

SENATOR DIERKS: Do you have difficulty with the amendment?

SENATOR ELMER: I think that it would be beyond what we currently recognize in ground water usage, in that groundwater users use correlative rights and share and share alike. In looking at where ground water possibly could be regulated, there are only two or three areas where ground water levels are declining and continue to. Most areas in the state that are being irrigated from heavily have water table levels at record highs. And the prospect of those ground water users being regulated in the foreseeable future is beyond my understanding because it will not happen.

SENATOR DIERKS: Well, if that's the case, then what do we need LB 108 for?

SENATOR ELMER: We need 10...LB 108 for our areas where regulation is going to be necessary, at least it appears that it could be.

SENATOR DIERKS: But we have...haven't we agreed that regulation is already taking place?

SENATOR ELMER: Only in those areas where the aquifer itself, not the interrelationship, is involved. If we have a declining aquifer, the NRD does have the ability to regulate ground water usage, but if the ground water level is influencing surface water, or vice versa, that is not a reason that the NRDs can use for regulation purposes.

SENATOR DIERKS: Isn't that an extremely difficult fact to prove? Haven't...the last amendment we talked about water rights from tributaries 70 miles away. Wouldn't that be difficult to prove? How much litigation would it take? How