

August 11, 2005

RE: Testimony to Nebraska Department of Natural Resources concerning proposed "Rules and Regulations on determining whether a basin is fully appropriated.

Director Patterson and Deputy Director Bleed, my name is Eric Alm. I am a Director of the Lower Platte North NRD and Chair of our Water Committee. Our District proposes three changes to your proposed rules and regulations.

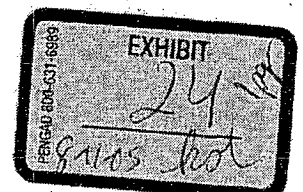
By motion and with a unanimous vote, our Board wishes to go on record opposing the portion of the proposed rules and regulations which would set the standard at 10% depletion over a 50 year time span. Past history in Nebraska and settlement of interstate compacts, have never used any standard except 28% depletion over 40 years. We do not wish to change the rules in the middle of the game especially with out a good reason.

Second, we feel boundary lines should stop at NRD boundaries when both NRDs are declared fully or over appropriated. There is little incentive for an NRD to enforce regulations from another District. We will do our job if reasonable rules govern us.

Third, we propose that integrated management plans be designed to protect surface water rights which exist 90% of the time. In the case of the Lower Platte River Instream Flow Right the cubic feet per second rate was set at 20% of the historical seasonal flow. We find it unfair to ask us to protect to a level which is only present once every five years.

Respectfully submitted,

Eric Alm - Director
Lower Platte North NRD



Good morning, I am Clint Johannes of Columbus, Nebraska, Assistant General Manager of the Nebraska Electric Generation & Transmission Cooperative, Inc. (NEG&T). I also am a member of the Water Policy Task Force representing power as well as current chairman of the Lower Platte North NRD Board of Directors and member of the Natural Resource Commission.

The NEG&T Board at their June 24, 2005 Board meeting discussed the rules being proposed for basins determined to be fully allocated and unanimously passed a Resolution. I will provide a copy of the Resolution #BD05-04 along with my June 27, 2005, letter transmitting the Resolution to Roger Patterson.

I would like to expand some on the comments in the Resolution in two general areas.

We support the LB962 proactive approach and want to avoid having the remaining portion of the State becoming over allocated; however, we feel strongly that the 28/40 boundary should be the standard used. It was the only boundary discussed with the Water Policy Task Force and the Task Force was led to believe this was the standard to be used.

Broadening the boundary to 10/50 in the remaining portion of the State where determination of "fully allocated" is to be made before Jan. 1, 2006, will result in many wells being located in 2-4 hydrologically connected basins. This large "overlap" will lead to problems. NRD's will be forced to have the same Integrated Management Plans and lose necessary flexibility.

It will be more difficult to explain and get public support. This "overlap" issue has never been a problem in the currently fully or over allocated areas of the Republican and Platte.

Because of the geology and probably the tighter web of tributaries in east and northeast Nebraska, the 28/40 boundary could generally result in the entire area being hydrologically connected. The 10/50 causes more overlap.

It would be most logical and easier to explain if the NRD boundaries were used for the fully allocated boundary. There is not sufficient science or information to be so accurate that NRD boundaries would not be a satisfactory proxy.

Many of the proponents of the 10/50 boundary are not involved in the areas where the determination is to be made and are in the already fully or over allocated areas where 28/40 was used.

The second area of concern in the proposed rules is how in-stream flows are used in the fully allocated determination.

When these flow rights were granted, most flows were expected to be available only about 20% of the time. This should be the same standard used in the determination. If calls were made on junior rights in the past for flows needed above the 20%, this was also wrong.

Thank you for the opportunity to provide our comments and concerns. We respectfully request that you make modification to the proposed rules to respond to these concerns.

