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November 9, 2004

Via Electronic Mail

Mike Clements
Lower Republican Natural Resources District
P.O. Box 618
706 2nd Street
Alma, Nebraska 68920

Re: Lower Republican Natural Resources District
LB 962
Our File No.: 20275

Dear Mike:

As requested, I have set forth below my thought as to concerns that the Board has expressed related to LB 962:

- ▶ The composition of the Interrelated Water Review Board seems to be biased in favor of the Department of Natural Resources (DNR). One way to address that concern is to create each Board in the same manner that arbitration panels are often set up -- the DNR and NRD would each choose a person (or persons) to serve on the Board and those individuals would then choose a mutually-agreeable person (or persons) to fill the vacant slots. You could then have either a three-member or five-member Board to address each dispute. This approach would avoid the appearance of bias.
- ▶ The Lower Republican Natural Resources District does not believe that the DNR should have the sole authority to designate a river basin, subbasin, or reach as either "fully appropriated" or "overappropriated." The Board believes that any such decision should be made jointly by the DNR and affected NRD. If it is not possible for the DNR and NRD to agree, the matter could be elevated through the Interrelated Water Review Board process.
- ▶ LB 962 is an effort to take the power away from the local NRDs and vest it in the DNR. The State of Nebraska made it clear many years ago that local control was critical to the proper administration and management of water resources. The

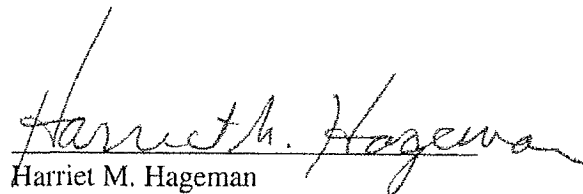
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DNR has never before been elevated in power over the NRDs. LB 962 should not be used as a vehicle to minimize the authority and responsibility of the local NRDs.

- ▶ LB 962 seems to be terribly complicated, requiring water rights administrators and water managers to rely upon lawyers to constantly be providing a legal analysis of the law. It would be better to find some way to simplify LB 962. One way to simplify LB 962 is to organize it using more subparagraphs. Using long paragraphs to address numerous issues makes LB 962 unnecessarily complicated.
- ▶ It may take some time to shake out, but we may find that it is impossible to meet the deadlines set forth in several of the LB 962 provisions. The issues to be addressed by the NRDs and the DNR are complicated. There should be sufficient time allowed to ensure that all of the issues are fully evaluated when making decisions that will impact the economic viability and health of particular geographic areas. These matters should not be rushed, while LB 962 seems to push expediency over thoroughness.

The foregoing are some of the thoughts that we previously discussed in terms of LB 962. Please let me know if you would like additional information.

Sincerely,


Harriet M. Hageman