

## GOVERNOR HEINEMAN SIGNS OFF ON EXTREME DNR RULES

Despite overwhelming opposition from natural resources districts, farm groups including Nebraskans First, and even a number of Water Policy Task Force members, Governor Heineman on August 31 signed off on rules involving LB 962 implementation developed by outgoing DNR director Roger Patterson. The essence of these rules was addressed in our last newsletter. Simply put, the DNR rules made a bad law (LB 962) even worse.

The public hearing on these rules was held in Kearney on August 11, 2005. The Kearney Hub said this in their story on that hearing: "A proposed rule that would put further regulations on thousands of groundwater irrigators across Nebraska was met with stiff opposition from the vast majority of public testimony taken by the DNR." The hearing lasted about three hours, and except for one environmental group and one public power district, there was no support for the rules. Nebraskans First Executive Director Don Adams testified against the rules and in part said the following:

- "These rules will harm our agricultural based economy, and effectively put a big CLOSED TO NEW BUSINESS sign up. In a state like ours where irrigation is a necessity, not a luxury, these rules make no economic sense. The livelihoods of hundreds of thousands of Nebraskans who are directly or indirectly dependent on irrigated agricultural production will be impacted. Our groundwater is a resource that must be used to generate new wealth that enhances land values, sustains our local tax bases and maintains our high quality of life."
- "Wise management of our groundwater requires that in dry periods we draw upon and even

draw down the aquifers, and use the water for a beneficial purpose so later recharge can occur during wet periods. Mother Nature allows for this give and take."

- "These rules will essentially turn our groundwater into stone. Farmers who have invested in irrigable land with the hope of someday putting in a well to irrigate their land will be hung out to dry. This devaluation of their property right is a serious matter and flies into the face of the correlative rights—share and share alike doctrine that has been the law of Nebraska since the advent of groundwater irrigation. These extreme rules will allow the DNR to control the means of agricultural production. This is not a good thing."
- "It is imperative right now that Governor Heineman intervene and instruct the DNR to go back to the negotiated rulemaking committee and develop some new rules that are reasonable, less intrusive, and not harmful to the economy and our producers. This matter is of such importance that the governor's intervention is desperately needed right now."

Ignoring all this, Governor Heineman signed off on the rules. In so doing, he gives us reason to question his full appreciation of the importance of irrigated agriculture and the need for local control of groundwater.

