

**House Memorial 42**  
**Written Comments from Stakeholders**  
**Re: Draft Statute/Rules/Regulations/Guidelines**

1. Frank R. Coppler (Coppler and Mannick, P.C.) received October 29, 2008
2. Liz Newlin Taylor (Taylor and McCaleb, P.A.) received November 6, 2008

October 29, 2008

**EMAIL CORRESPONDENCE**

Cheri Vogel – [cheri.vogel@state.nm.us](mailto:cheri.vogel@state.nm.us)

Re: HM 42 72-1-9 Water Planning  
Our File No. 1985.63

Dear Ms. Vogel:

Would you please add Water and Sanitation Districts to those entities eligible to have SEO recognized plans under 72-1-9 NMSA 1978? Currently the Districts are filing such plans and they are being accepted by SEO. However, there is an issue whether Districts are “member owned”. They are governmental subdivisions and quasi municipal corporations per §73-21-9 I. NMSA 1978 so as is the case with municipalities, Districts do not have “members”. They are a public corporation with taxing powers and a governing body elected by the registered qualified electors and as such are not “member owned”. To add Districts to the list of entities is merely a technical amendment to clearly authorize what is now the practice of the SEO in accepting District plans.

My District clients chose not to have me sit in all your meetings on HM-2 in order to make this technical point. I attended the first meeting and made the point but it's not cost effective to attend all your meetings. Would you please consider recommending this addition to the statute?

Thank you,

Frank R. Coppler

Cc: Pat Banegas

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## MEMORANDUM

TO: HM 42 Working Group

FROM: Liz Newlin Taylor

DATE: November 6, 2008

RE: Proposed language to define entities eligible for Water Development Plans

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Building on Fred Abramowitz's draft from the October 22, 2008, meeting, here is a proposed definition that would be *in addition to* the list of entities currently in the statute (Paragraphs A and B). The definition would be added to Paragraph C:

C. Nothing herein shall be construed as limiting the State Engineer from allowing other persons or entities not specified herein, including persons or entities required by law to provide water or other essential public services, from, ~~under limited and exception circumstances, acquiring and holding unused,~~ transferring or appropriating<sup>1</sup> water for an extended period of time, ~~where public policy so requires, and~~ where the person or entity can demonstrate an actual, non-speculative need for planning purposes to hold such water unused.

The changes noted here include some that we discussed at the last meeting, but the definition of the "entity" is intended to be the focus here. I look forward to your comments on Friday.

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<sup>1</sup>Substitute whatever clause Martha Franks proposes to capture the idea of transfer and appropriation instead of "acquiring and holding unused."