

SENATOR DIERKS: That's right.

SENATOR ELMER: Well, of course, in the absence of LB 108, there is no ability of the state of Nebraska or any of its NRDs to address a problem that might exist or might not exist where ground water pumping is actually using a portion of stream flow that is designated for another purpose that is actually an induced recharge of an aquifer that benefits that well, and until we have in place a method to address that, there will be the question on the parts of Colorado, the part of Wyoming and other states whether or not water released for another purpose actually can be accounted for without the ability...

SENATOR COORDSEN: Time.

SENATOR ELMER: ..of Nebraska to address its ground water use in alluvial plain situations.

SENATOR COORDSEN: Thank you, Senator Elmer. Senator Stuhr.

SENATOR STUHR: Mr. President and members of the Legislature, I have a reply from the Department of Water Resources in regards to when one state sues another state. It says that the dispute will then fall within the original jurisdiction of the U.S. Supreme Court. Because the U.S. Supreme Court is not a trial court, it appoints a special master to serve as a trial judge and, as a trial judge acting on behalf of the Supreme Court, the special master is not constrained in any way by state law. And I think there have been references made that 108 will actually help in the disputes between other states and I just want to share an example. It says examples of the authority of a special master to order water regulation contrary to existing state laws include Texas v. New Mexico, and Kansas v. Colorado. In both of these cases, Colorado and New Mexico had adopted extensive conjunctive use legislation prior to litigation and in both cases then the special master came in and then ordered these states to reduce their use of water. So I guess that brings a, you know, another question to mind. I know we've talked about whether we felt that 108 would actually help deter the lawsuit and I'm just wondering if Senator Beutler would respond to this special master.

SENATOR COORDSEN: Senator Beutler, a question please.