STATE OF NEBRASKA
Office of the Attorney General
2115 STATE CAPITOL BUILDING
LINCOLN, NEBRASKA 68509-8920
(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
1235 K ST. FAX (402) 471-4725

DON STENBERG
ATTORNEY GENERAL

L. STEVEN GRASZ
SAM GRIMMINGER
DEPUTY ATTORNEYS GENERAL

#93005

NO.
STATE OF NEBRASKA
OFFICIAL
FEB 5 1993
DEPT. OF JUSTICE

DATE: February 2, 1993

SUBJECT: Condemnation of Land for Regional Landfills

REQUESTED BY: Senator Stan Schellpeper, Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Linda L. Willard, Assistant Attorney General

You have inquired whether counties and municipalities have the power to act together to condemn land for the development of a regional landfill in any county in which any municipality which is a party to the agreement to develop the landfill is located or in any county which is a party to the agreement. Your question concerns the language of LB 1257 passed during the 1992 legislative session and now codified primarily at Neb. Rev. Stat. §§ 13-2001 through 13-2043 (1992 Cum.Supp.).

Section 13-2021 provides in significant part, "[a] county, municipality, or agency . . . may lease or acquire land in fee by gift, grant, purchase, or condemnation as necessary for the construction and operation of a facility or system." "Agency" is defined at § 13-2004 as "any combination of two or more municipalities or counties acting together under the Interlocal Cooperation Act [Neb. Rev. Stat. §§ 13-801 through 13-827 (1991)], a natural resources district acting alone or together with one or more counties and municipalities under the act, or any joint entity as defined in section 13-803." Therefore, a municipality and a county may act together under the Interlocal Cooperation Act to form an agency as defined by § 13-2021.

When the statutory language is plain and unambiguous, no judicial interpretation is needed to ascertain the statute's meaning, so that, absent statutory indication to the contrary, words in a statute will be given their ordinary meaning. *Nebraska*

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State Board of Agriculture v. Nebraska State Racing Commission, 239 Neb. 762, 767, 478 N.W.2d 270, 273 (1992); ***See also Hickenbottom v. Hickenbottom***, 239 Neb. 579, 477 N.W.2d 8 (1991); ***State v. Schuh***, 237 Neb. 667, 467 N.W.2d 409 (1991). The plain language of § 13-2021 states that counties, cities, or a combination of the two formed under the Interlocal Cooperation Act may condemn land as necessary for construction and operation of a facility for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste to include a solid waste landfill. Therefore, it is our determination that under the current legislation municipalities and counties have the power to act together to condemn land for the development of a regional landfill in any county in which any municipality which is a party to the agreement to develop the landfill is located or in any county which is a party to the agreement. However, if you feel that there may be any misinterpretation of the statutes involved or if this is not the result which you desire, additional legislation could be introduced to further clarify the issue.

Sincerely,

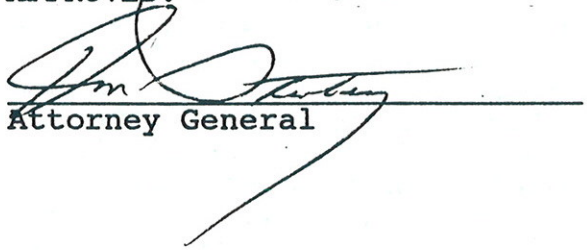
DON STENBERG
Attorney General

Linda L. Willard
Assistant Attorney General

28-02-14.93

cc: Patrick J. O'Donnell
Clerk of the Legislature

APPROVED:



Attorney General