
2009

COMMITTEE ON NATURAL RESOURCES

NEBRASKA LEGISLATURE

LR 128

Interim Study Report

**Interim Study to Examine Issues Relating to the Laws
of Nebraska Governing the Management and Use of
Nebraska Surface Water and Ground Water**

ONE HUNDRED-FIRST LEGISLATURE

FIRST SESSION

NATURAL RESOURCES COMMITTEE MEMBERS

Senator Chris Langemeier, Chairman
Senator Annette Dubas, Vice-Chairwoman
Senator Tom Carlson
Senator Tanya Cook
Senator Deb Fischer
Senator Ken Haar
Senator Beau McCoy
Senator Ken Schilz

LR 128

NATURAL RESOURCES COMMITTEE DECEMBER, 2009

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- II. MEMORANDUM, SENATOR CHRIS LANGEMEIER,
CHAIRMAN
- III. OCTOBER 5 AND OCTOBER 7, 2009, HEARING
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- IV. MEMORANDUM TO WATER POLICY TASK FORCE
MEMBERS, AUGUST 6, 2009
- V. RESPONSES TO AUGUST 6TH MEMORANDUM
- VI. NEBRASKA WATER PLAN RESOURCES
- VII. OTHER STATES' WATER PLANS

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 128

Introduced by Langemeier, 23.

PURPOSE: To study issues relating to the laws of Nebraska governing the management and use of Nebraska surface water and ground water. A comprehensive and inclusive evaluation is necessary, utilizing every identifiable source of funding and research, to create a valid and beneficial statewide water policy. The goal of the study is to identify all sources of funding and research that can be integrated and used by the Legislature and the Department of Natural Resources to develop a statewide water plan. Special attention shall be given to current water planning efforts and projects. Sources may include any local, state, or federal government entity, including the University of Nebraska, and any private individual, business, or organization.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of

its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

MEMORANDUM

TO: NATURAL RESOURCES COMMITTEE MEMBERS
FROM: SEN. CHRIS LANGEMEIER, CHAIRMAN
DATE: DECEMBER, 2009
SUBJECT: LR 128

The Natural Resources Committee held two public hearings on LR 128, one in Valentine on October 5, 2009, and the other in Kearney on October 7, 2009. These hearings, and the fact that most of the committee members were in attendance, garnered the attention of many interested parties throughout the state. My intent behind introducing this study resolution was to gather as much information as possible on the necessary elements of a statewide water plan. The many experts in their respective fields throughout Nebraska have already, and continue to be, responsive and helpful towards this goal.

The Water Policy Task Force officially ended on December 31, 2009, as required by statute. Before this date, I asked task force members for their opinions on the elements that should be included in a statewide water plan. The responses I received covered a broad spectrum of issues. It is clear that many difficult issues must be addressed in order to have a truly comprehensive statewide water plan that optimizes the use of the state's water resources for the greatest benefit of all Nebraskans.

A wealth of information was provided at the hearings as well. In general, the testimony at the hearings centered on some basic issues. There was no disagreement that the State of Nebraska needs a water plan, and that it must be constantly updated or ever-evolving. A good plan would provide a roadmap of the best way to manage water. A major issue addressed was the need for funding to address the issues because development of objectives should be based on accurate assessments, and there is benefit in identifying projects if we do not want to spend money to implement them. The source of the funding was the obvious problem, but regardless of its source, it should be a dedicated source of funding.

Another big issue stated was the need to define "sustainability," but it was cautioned that due to differing needs, sustainability may not have the same meaning among natural resources districts.

Other points made at the hearings included:

- The best water plans link regional and local resources and combine projects;
- The importance of considering economic development in a water plan;
- A state agency was needed to administer a plan by either revamping the Department of Natural Resources, developing a separate water planning entity, or assigning responsibilities to another agency; and
- Education efforts must be a significant part of any statewide water plan.

Included in this report are the hearing transcripts, and the responses received to the August 6, 2009, memorandum from me to the Water Policy Task Force members regarding the contents of a statewide water plan. Submissions were received from:

Brian Dunnigan, Director, Department of Natural Resources
Brian Barels, Water Resources Manager, Nebraska Public Power District
Claude Cappel, McCook
Eugene Glock, Cedar Bell Farms, Rising City
Don Kraus, General Manager, Central NE Public Power and Irrigation District
Dick Mercer/Ron Bishop, Central Platte NRD
Lloyd Nellor, Beemer
Dave Nelson, Upland
Jim Nelson, Boelus
Richard Uhrenholdt, Elgin
Chuck Wingert, Water Resources Manager, Nemaha NRD
John Miyoshi, General Manager, Lower Platte North NRD
Mace Hack, State Director, The Nature Conservancy
Jay Rempe, Nebraska Farm Bureau
Dennis Schueth, General Manager, Upper Elkhorn NRD

I plan to continue reviewing the material gathered for this study and working towards the development of a statewide water plan. I will introduce another study resolution this session to ensure the work continues.

Other information, including handouts from the hearings and news articles on water planning are filed in my office.

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Natural Resources Committee
October 05, 2009

[LR128 LR181]

The Committee on Natural Resources met at 9:00 a.m. on Monday, October 5, 2009, in Minnechaduzza Conference Room at Valentine's Niobrara Lodge for the purpose of conducting an interim hearing on LR128 and LR181. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tom Carlson; Deb Fischer; Ken Haar; Tom Hansen; Beau McCoy; Ken Schilz; and Kate Sullivan. Senators absent: Tanya Cook. []

SENATOR LANGEMEIER: Good morning, everyone, and welcome to Valentine, and I say that from Senator Fischer as I welcome myself to Valentine. We're here today for an interim study on LR128 as well as LR181. First of all, I'd like to introduce those people sitting around us today. We have more than just the Natural Resource Committee, and we would like to welcome our guest senators with us, and we appreciate their willingness to come out with us today. Starting on my far right, your far left we have Barb Koehlmoos, the committee clerk for the Natural Resources Committee. Then we have Senator Tom Hansen from North Platte, Nebraska. We have Senator Ken Schilz from Ogallala, Nebraska. We have Senator Tom Carlson from Holdrege, Nebraska, and then the local favorite, Senator Deb Fischer (laughter) from Valentine, Nebraska. I am Senator Chris Langemeier and the chairman of the Natural Resources Committee. To my left we have Laurie Lage, the legal counsel for the Natural Resources Committee. To her left, we have Vice Chairman of the Natural Resources Committee, Senator Annette Dubas, and then to her left, we have Senator Ken Haar from Malcolm, Nebraska. And then to his left, we have Senator Beau McCoy from Omaha, and then Senator Kate Sullivan. I'd like to also welcome former senator, Howard Lamb, who came with his wife, Jo, that are in the crowd. We saw them come in. Welcome and thanks for coming back. As we start today, most of you saw...I saw you at the table over there to testify, there is a green sheet that looks like this on the table over here. As you come up to testify, we'll ask that you fill this out and please fill it out before you come up to testify. There's a basket here on the table. Please put it in the basket when you come

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up as you testify. For those of you that want to be here but don't want to testify, but you want us to have you on record as being here in some position there's also this form over there that you can fill out and write your name on and what your thoughts are. And so we will put you in the record as having attended but not testified. We would ask at this time if everybody would turn their cell phones off so we can respect those that are going to testify in front of you. As you come up to testify today, we'll ask that you state and then spell your name before you start your testimony. That way for the transcribers, we get your name right for the future transcript and history of this event. You'll see in front of you the little colorful lights. You will get a green light...I'm going to play with the lights. You're going to get a green light. Everybody gets five minutes to testify. With one minute left, she'll turn you to yellow, and then at red that's when we would ask you to conclude. With that, anything else? Oh, and this is a little different than a legislative hearing. For the interim studies we don't take proponents, then opponents, then neutral testimony. Just come on up as we continue to progress through it and give your testimony. We won't take it in any particular order, just in the order in which you wish to come forward. And if you do have copies of your testimony you'd like the committee to have, please give it to Barb and she'll get it distributed to the committee. We ask that normally those of you who had testified before, we ask for ten copies. If you have a couple more for our extra guests here today, we'd appreciate it. But we know many...as I look over the faces, many of you have testified before us before so if you just have ten copies that is fine. Anything you happen to bring along to hand out for us to look at, we will enter it into the record, so if you have some family photos you want to show us please just show us from the table because if you hand them to us you're not going to get them back so keep a hold of it if you want to keep it because if you give it to us to look at, we will take it and make it part of the record. And so with that, we are going to start with the first resolution which is mine which is LR128, and I'm going to go over there just because I want to see if that's all going to work. Are we ready? My name is Chris Langemeier, C-h-r-i-s. Langemeier is L-a-n-g-e-m-e-i-e-r. I'm here today to introduce LR128. It's an interim study to examine in essence...I'm not going to read the title or tell you the title. The idea of it was to create a statewide water plan. Many states have done

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it. Nebraska did it in 1971. As chairman of the Natural Resources Committee, on many occasions I go across the state, and I've had the opportunity to meet a lot of people that have said, we need a statewide water plan. What's the future of water in Nebraska? What's the future uses going to be? How can we continue to develop our natural resources and use it to its fullest extent? So the idea of LR128 was not to come up with a plan this year but was to talk about a definition. Over the hundreds of people that I've met across this state and talked to them about a statewide water plan, every single one of them had a different definition. So I decided that we should do a hearing and have everybody give us their testimony for a statewide water plan and I can tell you I sent this out to everybody on the Water Policy Task Force, and a number of other people that are...been a big part of water across Nebraska for many, many years, and they have been very gracious to work on letters. You'll see them...and the senators will see them in their books as everybody has written me kind of a definition. There's about 20, 25 of them in your book that people across the state have sent in that have defined what a statewide water plan is. This isn't a plan, in my opinion, as we look to find a definition...this isn't designed to create a plan that we're going to put on the shelves in the great halls of the Nebraska Legislature, and we're going to enforce and mandate from the Legislature. We can set that straight right now. The idea is is to decide what should be in a statewide water plan, how do we get Game and Parks? How do we get our NRDs? How do we get our surface irrigation? How do we get everybody in the world of playing with water, our recreational uses? How do we make a big picture, so we can meet the needs of everybody in Nebraska? We can continue to grow with economic development using our resource. And so with that, I'll conclude. I will take questions if anyone has a question for me at this time, but at this point in this what I'm calling statewide water plan is the opportunity to define what a statewide water plan should look like and who should be included. Questions? I'm off the hook easy. You've heard my opening. Now we'll take testifiers, those who would like to testify or if you'd like to give your thoughts. I know I've had a lot of them come in in letter form ahead of time. If you'd like to testify, please come forward. Goll, look at that, I stumped the whole room. Come on up. Time is of the essence. Come on up, Jay. While he fills out a sheet, I think

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I sparked a thought. Go ahead, and do you want to sit kind of on deck there and get your sheet filled out and. Welcome. [LR128]

JAY REMPE: (Exhibit 1) Thank you. Senator Langemeier, members of the Natural Resources Committee and other invited guests, my name is Jay Rempe, J-a-y R-e-m-p-e. I am vice president of governmental relations for Nebraska Farm Bureau. Just wanted to do a couple of things here this morning and thank you for inviting us up here to the beautiful Valentine area, Senator Fischer. We were hoping maybe for some sunny weather to see the foliage, but... [LR128]

SENATOR FISCHER: We never mind the rain. [LR128]

JAY REMPE: No. (Laugh) Let me do a couple of things this morning. I did submit a letter with some comments on behalf of Nebraska Farm Bureau on a statewide water plan, and I just wanted to hit a couple of points there and not reiterate everything. But the other thing I wanted to do is maybe give a little bit of background on why we feel statewide water planning process and the discussion of it might be important. What I've handed out to you, and this idea actually came...Tim Anderson on a conference call last week suggested that maybe we share this with you is a study that was performed by Dr. Charles Lamphear. If you know Dr. Lamphear, he was the head of the Bureau of Business Research at the University of Nebraska for a number of years, retired in the early 2000s. We contacted him about doing a study...on updating actually a study that was done in the mid-'80s, looking at the economic importance of irrigation to the state. So he took the year 2003 and did a study and looked at what irrigation meant to the state in 2003. If you remember, 2003 was a drought year, and so irrigation was very important. But what he found...I think a couple of things to take away from the study. One, irrigation contributed \$4.5 billion to the state's economy that year which that amounts to roughly about \$2,600 per person in the state at the time. And since then I would probably suggest that that's even grown because of the number of irrigated acres that has grown since then and commodity prices are a little different than what they

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were in 2003 as well. So I'd imagine the impact has grown since then, but the other, I think, key indicator in there was in 2003 45,000 jobs were directly attributable to irrigation. And I just laid that out there to show you, that's only one part of our water use picture in this state. Obviously, irrigation is a very important part, but we also have hydropower; we have recreation interests; we have municipalities, but to give you just a sense of the importance of water use and managing water properly in our state, because a lot is at stake. And so having said that, the reason Farm Bureau is interested in pursuing and looking at a statewide water plan, we want to make sure that we manage this resource wisely, manage it for the benefit of our citizens and to preserve or protect it for future generations. And we think a statewide water planning process can assist in that. And we kind of talked about a statewide water plan, we've always talked about one that was very much driven from the ground up, from the bottom up from the folks out in the river basins, the NRDs, the surface water districts, the other users in those basins looking at their basins trying to figure out what's going on, what their supply is, what their consumptive use is, gathering the data, identifying the challenges that they have to face whether it be compliance with LB962, interstate compacts' compliance, interstate agreements, maybe some other local challenges that they face, identifying those, pulling those all together, identify the various means and alternatives of trying to address those challenges. And I think research and data gathering has to be a critical part of that, because, obviously, we've learned a lot over the last few years about our water resources, but we have a lot to learn yet. And so we have more that we can gather there, but pulling this all together and then presenting that to you as policymakers and identifying those challenges, identifying where maybe some additional funding is needed, where some maybe institutional changes are needed in our law, some of those kind of things, pulling that all together, presenting that to you. And then you and the other policymakers can make decisions based on that on how best to invest our monetary resources, but anything else that we might need to do to address those challenges. So that in a nutshell is kind of how we envision maybe a statewide water planning process. Let me finish by saying I think it would be a very dynamic process. I don't think it's something you do once and then you forget about. It's something that you

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constantly...you develop it, but you're constantly updating it, and I think it can serve as a measuring stick, if you will, of how we're coming along addressing these challenges that we face, that we can set up a plan, we can start working towards that plan, and then every few years we can check back and see how we're doing, how we're measuring up against that plan, what has changed since the last time we put this plan together and moved forward from there. So with that, I will be quiet and answer any questions you might have. [LR128]

SENATOR LANGEMEIER: Very good. Thank you, Mr. Rempe. Are there any questions for Jay? Senator Carlson, you have a question? [LR128]

SENATOR CARLSON: Yes. Thank you, Senator Langemeier. Jay, on what you handed out here and these pages aren't numbered, so it makes it a little bit...but I guess if you just turn past that first page and this bar graph. [LR128]

JAY REMPE: Um-hum. [LR128]

SENATOR CARLSON: And you look at the economic impact of irrigated versus dryland? [LR128]

JAY REMPE: Right, yeah. [LR128]

SENATOR CARLSON: And one of them says under normal weather conditions, the other one under actual, I don't quite understand what actual means. [LR128]

JAY REMPE: Actual means that the actual conditions that existed in 2003. [LR128]

SENATOR CARLSON: Okay, 2003. [LR128]

JAY REMPE: Normal means they tried to go back and like...as I mentioned earlier, 2003

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was a drought year, and so they tried to go back and look at typically what a typical year might mean too. [LR128]

SENATOR CARLSON: So if this is pretty close, then the effect of not allowing somebody to irrigate is roughly 50 percent revenue, revenue cut. [LR128]

JAY REMPE: Um-hum. [LR128]

SENATOR CARLSON: With no compensation. And that's a pretty stiff penalty. Do you have reservations about a state water plan that would give that kind of authority at the state level? [LR128]

JAY REMPE: Yeah, in terms of...again in a statewide water plan, we don't tend...from our perspective anyway, to be something that where the state lays out here's what you must do in the Niobrara basin or here is what you must do in the North Platte basin. It's more of a process or procedure where folks in the local area on the ground can determine what's best in their area, and then at the state level we can kind of compile that and get a sense of where we need to invest some resources. So no, we would not be comfortable with the idea of a state mandating that something be done in a particular area or shutting down irrigation or that kind of thing, no. [LR128]

SENATOR CARLSON: Okay. Thank you. [LR128]

SENATOR LANGEMEIER: Senator Fischer. [LR128]

SENATOR FISCHER: Thank you, Mr. Chairman. Mr. Rempe, if there was a change from irrigated farmland to dryland farmland, either in this report or your feelings, how would that affect a local community, and then on a broader basis, how would that affect the state of Nebraska? [LR128]

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JAY REMPE: Well, obviously, in a local community a couple of immediate effects come to mind. One is the...you'd see a slow-down in business just because of the amounts of inputs that go into an irrigated farm as compared to a dryland farm, so there would definitely be some third-party impacts of folks in the local communities and those economies first. Secondly, you'd see a reduction of valuation base, property tax base for the schools, the counties, the NRDs. You would lose that base, so there would be a tax impact there. Then at the statewide level, I think you'd see a reduction in income taxes collected; you would see possibly some sales tax revenue drops as well, so there would be some revenue impacts there too. [LR128]

SENATOR FISCHER: You mentioned valuation decreases. How do you think that would affect local banks, and then taking it to the state level, you mentioned state aid to schools when you have a drop in valuation? Could you explain how you think that would affect state aid to schools statewide? [LR128]

JAY REMPE: Well, obviously, from the local...not being a local banker, but I'd think that would affect their portfolio if you see lands values go down, that they wouldn't like that in terms of how their portfolio stacks up and loans and things. At the statewide level, obviously, there would be impact on state aid to the extent...the way the...as I understand it, state aid formula is set up to the extent that a lower or school district's valuation declines. In theory, the state aid is supposed to step in and take care of that drop in local resources, so you'd see...a good point. But you'd see a double whammy at the state level in terms of lower tax collections coming in, but then perhaps more state aid going out the other side and to make up for that lower valuation base. [LR128]

SENATOR FISCHER: With the revenue situation as it stands currently here in the state, we're below forecast which concerns all of us. I doubt if any more money is going into state aid; possibly there will be cuts. How would that play out, and where do nonequalized districts come in then? [LR128]

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JAY REMPE: Well, obviously, the way things are looking, there's going to have to be some decisions made at the state level in terms of the state's budget. And you senators will be the ones making those decisions, so it would be...there's going to be some tough decisions to be made. I don't know how I'd see it playing out, I guess. Senators in the past have shown a willingness to fund state aid to the extent that they can, and I think that would continue in the future, but there's always that question mark, and then that from a local school district standpoint, if we've got to cut back on state aid, then if you're cutting back on irrigated tax base as well, that's kind of a double whammy. [LR128]

SENATOR FISCHER: But even if we didn't have to cut back in state aid, there would be a shift in the distribution if valuations go down in a certain area of the state, wouldn't there? [LR128]

JAY REMPE: Yeah, yeah, and that's a good point. There would be a shift in distribution, depending on how the school districts were equalized or unequalized, and how they compared to other school districts. Yes, there would be. [LR128]

SENATOR FISCHER: Thank you. [LR128]

JAY REMPE: Um-hum. [LR128]

SENATOR LANGEMEIER: Any other questions? Senator Dubas. [LR128]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Rempe, for being here this morning. Would you see a statewide water plan helping us be maybe a little more proactive when we get into periods of extended drought? I think we learned a lot from this drought of 2000. Could we take some of that and maybe mitigate some of the impact of an extended drought? [LR128]

JAY REMPE: Oh, definitely. I think if structured right and particularly if we try to use the

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planning process as a way to look at existing supplies and uses and how they match up and how we can move in the future, I think it would identify some things that maybe we've never even thought of that we could do to prepare for dry periods or droughts or those kind of things so, yes, most definitely. [LR128]

SENATOR DUBAS: Thank you. [LR128]

SENATOR LANGEMEIER: Other questions? Senator Haar. [LR128]

SENATOR HAAR: Thank you very much. I have a question too, but he was first, I guess. [LR128]

SENATOR SCHILZ: That's okay. Go ahead. [LR128]

SENATOR LANGEMEIER: We're over there. You can go. [LR128]

SENATOR HAAR: Okay. One of the probably tough things about all of this planning is the concept we're beginning to hear from all over including farm groups is sustainability. Talk about that a little bit in terms of a water plan. [LR128]

JAY REMPE: Well, I think one of the things that as we've gone into this integrated management planning process, we've...there's been a lot of talk about looking at our current water supplies, and there's been some discussion about...and I'll call it a water budget. There's been some talk about how do we set up a water budget for a given basin, and I think we can maybe use some of those concepts in a water planning process to look at available supplies, where the uses are, where the consumptive uses are, and start to think about what is sustainable in the long term in terms of our uses? It kind of gets back to Senator Dubas' question, how do we, you know, take advantage or use these available water resources when we have them in terms of when we have periods of plenty of moisture, but then what can we do to prepare ourselves and be

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sustainable long term and weather out those dry years. I think experience has shown us, obviously, everything is very cyclical, and there's obviously times when we have plenty, and there's times when we're not, and if we can just figure out a way to even those out and take advantage where we can, and when we have to, cut back a little bit to get through those dry periods. I think a planning process can assist that and trying to aim for that long-term sustainability. [LR128]

SENATOR LANGEMEIER: Senator Schilz. [LR128]

SENATOR SCHILZ: Thank you, Senator Langemeier. Jay, welcome this morning. As we talk about a water plan going forward, obviously, what you see in the political sense and whether anybody likes to admit it or not, water is a lot about politics. How do you maintain the continuity of a plan as you go forward? I mean, because...and you know where I'm going with this. How do you put it together and keep it together, because we've seen in a lot of other situations where planning has tried to have been...has been used, we've seen the problem of Mission Creek or just...or even just falling apart and nothing happening. Do you have any ideas on how you do that? [LR128]

JAY REMPE: Yeah, that's a good question, and I'm not sure (laugh). I think...now let me attempt it a couple of different ways. One, maybe you could build in some mechanisms or somehow to try to make it ongoing. As I mentioned earlier, I envision this as being a dynamic process that it's just not something you do once, that you continue to go forward. And so, I'd have to give it some thought, Senator, but maybe there's some ways you can design it or set up a process where it builds on itself first. Secondly, I would hope perhaps I think there's a lot of interest in trying to move forward in a statewide water planning process, and I think with the built-up interest and once maybe you get started, and there would be, hopefully, enough buy-in to see the end products and the outcomes and, again, to use it as a measuring stick that maybe just momentum itself would just keep the process rolling and keep it going, I would hope. [LR128]

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SENATOR SCHILZ: And as you talk about this "process", and when you talk about the statewide water plan or whatever, you're not talking...talk down...I mean, basically, what you're saying is hey, every region has different needs and different goals and different ideas about what will work and what won't work and you're saying, allow those to happen in a flexible type of planning process that works with local interests. [LR128]

JAY REMPE: Right, yeah, exactly. I don't view it as the state stepping in and saying, here's our plan, you're going to move forward. I view it as a very bottom up approach, each basin identifying their own challenges and how to move forward best in their local areas. [LR128]

SENATOR SCHILZ: And then the last thing and they've struggled with this forever is how do you pay for what needs to happen once you have the plan in place? Because as we well know, when LB962 was put into place, everything got put into place except the funding to do the research to move on to find some of those processes before. [LR128]

JAY REMPE: Yeah. [LR128]

SENATOR SCHILZ: Do you have any ideas on that or have you thought about that any? [LR128]

JAY REMPE: Oh, I've given it some thought. Nothing I want to share publicly or (laughter). I contend part of our problem with the LB962 process is that we weren't able to come to you as senators and give it a clear outline of why...two things...why money was needed, why funding was needed, and what we hope to achieve with that funding, and how that funding would help resolve the problems or the challenges. And I still think that that's an issue, and I...in my own mind, a statewide water planning process can help address that, that we could...that the water community could come to senators and say, okay, here's an outline of the challenges we face. Here's the alternative means to address them; here's where we need the funding. And I think that would offer some...a

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clear path as policymakers and as controlling the purse strings to be able to maybe make some better decisions in that arena. I would hope. [LR128]

SENATOR SCHILZ: And so, basically, I take it that what you're saying is that since we can't...since it was virtually impossible before to say, hey, this money is going to be used for this or this, we're basically talking about research to find out what works, what doesn't, what the logical case is and the specific area, and how to solve certain problems. Right? [LR128]

JAY REMPE: Right, yeah. That's got to be very much a key part of it, yes. [LR128]

SENATOR SCHILZ: Like eating a water buffalo. One bite at a time. [LR128]

JAY REMPE: Um-hum, yeah (laugh). [LR128]

SENATOR SCHILZ: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Fischer. [LR128]

SENATOR FISCHER: Thank you, Chairman Langemeier. Mr. Rempe, you've been involved in water issues for many years, and you're a member of the previous water policy task force. Correct? [LR128]

JAY REMPE: Yes. [LR128]

SENATOR FISCHER: With your experience on that task force and just your experience with water issues as a whole from a legal side, you're also an attorney, correct? [LR128]

JAY REMPE: No, I'm not an attorney. [LR128]

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SENATOR FISCHER: Oh, gee, that's...okay. [LR128]

JAY REMPE: No. I'm married to one. That's as close as I get so (laughter). [LR128]

SENATOR FISCHER: And here I've been relying on you for (inaudible) (laughter).
[LR128]

JAY REMPE: Yeah, my secret's out (laugh). [LR128]

SENATOR FISCHER: Poof. So, Senator Langemeier was saying the purpose of this study was to define what a statewide water plan should be. And what I'm hearing from you, you're saying it needs to be a grassroots movement on most to recognize the differences and the regions, right, and the different basins? [LR128]

JAY REMPE: Um-hum. [LR128]

SENATOR FISCHER: Do you think the previous water policy task force had that view?
[LR128]

JAY REMPE: Yeah, I think so. In fact, they spent a lot of time two or three years ago talking about how you might move forward in a planning process, and the process that they came up with, that we came up with, was very much a bottom-up approach. And part of the thinking in terms of making it statewide is just to make sure that each basin went about it similarly, so you didn't have the Republican Basin coming forward with some ideas and the lower Platte, but they came at it differently. And so you couldn't really compare it to see exactly what the difference...I think part of the thinking and the water policy task force will set out these broad parameters and then let it come up from the bottom up, yes. [LR128]

SENATOR FISCHER: How do you see a statewide water plan functioning now? The

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Legislature do it, the Legislature form a group like the water policy task force to do it if you form a group, how big should it be? I don't think 40-some members is always good, but there's a lot of interests out there. How do you see that happening? What would be your recommendation to us? [LR128]

SENATOR LANGEMEIER: I guess from my...and I haven't given this a whole lot of thought, but from my standpoint I think it would be good for the Legislature as a body, and if it's interested in a statewide water planning process to lay out what kind of the broad parameters or what it hopes to achieve. And I think that does a couple of things. One, it involves the Legislature or it says...it sends a message that yes, we're interested in this and moving forward, and we want to see what comes out of it, one. And then I think secondly, when it's done then, obviously, the Legislature has some political stake in it, so I think that's good. I really, honestly, I'd have to give that some thought; how you move forward beyond that, I'm not sure. But I'll give it some thought, and we can visit a little more about that. [LR128]

SENATOR FISCHER: Okay. Thank you. [LR128]

JAY REMPE: Yeah. [LR128]

SENATOR LANGEMEIER: Senator Carlson. [LR128]

SENATOR CARLSON: Thank you, Senator Langemeier. I want to come back to what Senator Fischer said in her first questions with you, and you talked about the double wham on taxes. And I think it's good to reemphasize that again, because with high valuations because of irrigated property, irrigated land, most rural school districts receive either none or very little state aid which means that the bulk of the educational expenses for the students in their districts are paid for by local property tax. Now, if you have an asset rich district, and it's irrigated farmland, then you also have...on a good year, you had a lot of income. And therefore, a lot of income tax, and you also have a lot

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of purchases so you had a lot of sales tax. The state is the beneficiary of those income taxes and those sales taxes if the property tax is paying for most of the education. So I'm just restating, but I think it's so important that we understand this, because then if at the state level a decision is made that a lot of this land becomes dryland in a water short year, evaluation goes down, so you already said it. State aid is going to go up. If we don't have the water, income goes down. Sales, big sales and little sales go down, so there's a loss of income tax and there's a loss of sales tax. And it's a severe double wham on the state. We've heard statements this last week of how rural Nebraska is a drag on the whole state, and that kind of decision that takes water away from people really accentuates that possibility. Rural Nebraska is pretty important to the state of Nebraska. But part of the material we have here from a citizen who says, my feeling is the state needs to be the one to regulate and determine the amount of use of water in each river basin. Do you agree with that? [LR128]

JAY REMPE: No, I don't. No. I...there is a role for the state, but obviously, I think and our members strongly believe that the best decisions are ones that are made locally and because of just what you pointed out, the economic consequences of those decisions and the folks closest to it are the best ones to make the decision, so no, I disagree with that statement. [LR128]

SENATOR CARLSON: Thank you. [LR128]

SENATOR LANGEMEIER: Any questions? Seeing none, thank you very much, Jay. [LR128]

JAY REMPE: Um-hum. [LR128]

SENATOR LANGEMEIER: The next one is ready. Come on up. If I can have you put your sheet in the box, we are ready when you are. [LR128]

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JOHN RAVENSCROFT: Good morning. My name is John Ravenscroft, R-a-v-e-n-s-c-r-o-f-t. You feel pretty bold when you first come up here, but after you sit there awhile, you get kind of nervous but (laughter). I guess my main topic is...or main thrust, and it's already been touched on, is I don't think you can write a state water policy to cover the same or one size fits all. But I know government does that a lot, and that you need to adapt the policy so it's flexible enough to fit different regions, and the amount of water they have in that region--ground water and surface water to meet the needs of the producers in that area. And I think that agriculture is already struggling the way it is that increased inputs, and we don't need to handicap agriculture farther by a stringent water policy that mandates and tells people how to use their water, and if they're going to use water they have to do certain things different ways. So I know there are a lot of things that agriculture can do to make water go farther in the way they treat the ground. Any time you take cover off the ground, the water is going to run off; if you can leave cover on it has a tendency to hold the water and so that's so. I guess that's about it. [LR128]

SENATOR LANGEMEIER: Are there any questions? Seeing none, they're going to let you off the hook too so thank you very much for your testimony. I appreciate it very much. [LR128]

JOHN RAVENSCROFT: All right, thank you. Yeah. [LR128]

SENATOR LANGEMEIER: Further testimony? [LR128]

BRIAN BARELS: (Exhibit 2) Good morning, Senator Langemeier, members of the committee and guests. We're glad to have the opportunity to get together and talk about planning for water. I think it's crucial as we move forward to find ways to do the planning processes that are necessary to make water available. I'm sorry. [LR128]

SENATOR LANGEMEIER: Got to do your name. [LR128]

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BRIAN BARELS: Brian Barels. That's spelled B-r-i-a-n B-a-r-e-l-s. Thank you. And I'm the water resources manager with Nebraska Public Power District. As we look forward to our future needs and the goal of reaching sustainable levels of uses in the state of Nebraska, I think it's important to look and have a planning process in place, and it needs to be an ever evolving process. Some of the earlier questions have to do with the potential impacts of retiring irrigated acres, and that is a significant concern, and that is an alternative that isn't in the best interest of local interests or the state. Had we had extensive water planning processes in place, we may have the offsets necessary to maintain irrigated agriculture in Nebraska at the level we have. Now don't get me wrong. In some basins we may have overdeveloped, but if we had a planning process, as Mr. Rempe indicated, that looked at periods of excesses and different management techniques that could be implemented to say, store additional water in our ground water aquifers, pump it out in times of shortage, and different alternatives like that, and again, there's not one size fits all in the state of Nebraska, so the planning process needs to reflect those regional issues, the river basin issues and find a way to bring those up into a statewide planning process. One of the things that has stimulated this...we've had water planning over the years with surface water beginning in the early 1900s and the diversion of surface water for irrigated land. We then evolved into the development of our ground...oh excuse me. Then in the thirties when we had shortages we did planning; we installed reservoirs in the system in the thirties to the fifties. We also had the development of ground water, and that opportunity which helped get us past the shortages. As Senator Langemeier mentioned, we had some planning in the seventies on how do we go forward from here now with what we know? And I think it's for that reason that we need to do that again at this point in time. LB962, I think as being a member of the soon-to-end water policy task force, its goal was to stimulate water planning. Unfortunately, it's become a regulatory mechanism with moratoriums and the fear that we are not going to have development. If that would have been the desired outcome of LB962, I don't think the water policy task force would have passed it. I never envision the end of development for water resources in Nebraska. I figured we had to

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get smarter, and we had to figure out how to manage them, and we just need to do that step. And that's exactly, I think, why we're here talking about a statewide water planning process today. A state plan, as I said, is a process that provides water management professionals, elected officials, and the public with the information needed to manage limited water resources and limited money resources. It will provide the means for planning, conservation development, management, protection, and the use of the state's water resources. I believe it's very important that the Legislature identify the purposes and expectations for the state water plan and provide the necessary funding to develop that plan. We need to get this plan done so that we can avoid the economic impacts of having to take regulatory measures to solve our water resource problems. There's a number of things that can be included in the purposes of the plan. I'm going to touch on a few of them. We need to manage our water resources in a sustainable manner for current and future uses. It needs to recommend the strategic goals and objectives in the near and long-term actions that would conserve, manage, and develop, and sustain Nebraska's water resources. We need to identify those problems that must be addressed along with each river basin's priority issues. We need to identify the future water and long-term needs for different uses within the state. We need to provide for maintenance of water quality of those water resources while we do this planning. We need to identify management strategies to provide additional water resources and how we're going to manage in times of drought. We need to provide guidance from a local level and from an NRD level and from the state agencies as well. The proposed solutions may have some statewide implications but mostly they would be river basin and regional in nature. And then what the main goal of the statewide water plan is, is what are the objectives to achieve those goals. Those need to be developed through the planning process. And the plan needs to include the assessments of how much water we have, what are our water needs, what are our future water needs, and what are the steps we can do to get from periods of high flows or a wet year like some parts of the state have encountered this year to set that water aside for future dry year periods. I provided a number of attachments to my handout just for information that the committee may look at and contemplate and, hopefully, find some benefit from. The first

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attachment provides information on the steps necessary to achieve the plan. And as Senator Langemeier said, there's a number of plans out there. And these are just a few of the ideas and in reading a number of them that, not intended to be the plan, just ideas for the committee's consideration. Attachment B is the type of objectives that are in Kansas' most recent plan. They're 2010 and 2015 objectives. They're here for information only. The type of objectives that can get developed from a statewide basis and how that might be addressed. And again, it's only for thought stimulation only. Attachment C then includes some examples of management strategies that can be found in various state water plans. There's a lot of different management strategies, whether they be land use, cropping, surface water reservoirs, water conservation. There's a lot of different management strategies and until you understand your water supplies and your water uses, you don't know which one of those strategies might work best in what river basin in the state. I think with that, I'd just end up by saying that a question was asked on how do we develop this and how do we create the enthusiasm to keep it going. I have participated in some discussions with some NRD managers and other surface water irrigation managers, and I think we need to have a focus for this to occur and a place for it to live within the state. How does it get developed? Who is responsible for making it? Who is responsible for providing the annual plans, the updates? Who is responsible for the implementation? All good questions. I might suggest and I think at a later hearing on LR128, Ron Bishop of the Central Platte NRD may provide some additional insights on this. And I'll just mention, I think we might want to consider a state water planning agency. I think we need to provide this focus. Water is our most important natural resource and we need to provide the focus to make sure that we have that resource in a sustainable manner for future Nebraskans. So, I'd be glad to answer any questions you may have. [LR128]

SENATOR LANGEMEIER: Very good. Are there questions? Senator Hansen. We'll start on that end. [LR128]

SENATOR HANSEN: Thank you, Senator Langemeier. Brian, it's good to have you here

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this morning. One topic you didn't mention and I didn't see in your attachments either is litigation with other states. How do we continue making water plan for the state of Nebraska when we continue being in litigation with other states over water quantity?
[LR128]

BRIAN BARELS: I see the planning effort as a way to identify different ways to conserve and provide water. When you're in litigation it makes it much more difficult. But the planning studies, very honestly, they're not a lot different than what Missouri does or Kansas does or Wyoming does. They all do them and Wyoming has done water planning in the middle of the North Platte decree, a litigation with Nebraska. So it's a matter of looking for the water supplies and how can we better manage those. And those can be separate studies and, of course, you have to coordinate with the litigation efforts of the state and all those necessary things. But look for ways to comply with the decree, or the compact, for example, with Kansas. Has to be something Kansas would be very pleased with. [LR128]

SENATOR HANSEN: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Schilz. [LR128]

SENATOR SCHILZ: Thank you, Senator Langemeier. Brian, good morning. Welcome to beautiful sunny Valentine. [LR128]

BRIAN BARELS: Water's good. [LR128]

SENATOR SCHILZ: So appropos for a water meeting, huh? Hey, as you began your statements this morning, and I think this is one of the big reasons why the Nebraska Water Policy Task Force had such a tough time in getting that planning process jump started. Can you tell me, and tell me if you think this is true or not, the definition of sustainability has always been a stickler and how do you get to that? Would you...I

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mean, isn't that what we're talking about here and how you define that first before you go forward? [LR128]

BRIAN BARELS: And it was a stickler for the Water Policy Task Force. There's no ifs, ands, or buts about it. But it's that water supply or the management methods you can implement that will sustain those uses that are necessary and benefit the people. [LR128]

SENATOR SCHILZ: So it takes into consideration, economics, and recreation, and all that to try to... [LR128]

BRIAN BARELS: It needs to. Whenever there is ever a trade-off in water, there's definitely economics involved in it. But one of the things that we need to understand is, water can be used and reused. If you look at...and you'll have the opportunity as I understand it to visit Lake McConaughy a little bit and if you can understand, that water is used for recreation, it's used for instream flows, it's used for ground water recharge. It comes back to the river. It's used for irrigation. It produces hydropower. It cools the largest power plant in the state and they're ways that we can manage that water so that it can be reused and we don't get those shortages and have that situation where someone doesn't have water to use. Every part of the state is different so you have to develop a different management plan for different parts of the state. Some have a nice Ogallala aquifer, a nice reservoir under the ground that we can use to store water in and pump water out of it in times of shortages. Some parts of the state don't have that opportunity. They need to look for other management alternatives. [LR128]

SENATOR LANGEMEIER: Thank you. Other questions? Senator Carlson, nope? We're going to go clear out to the other end and work our way back. Senator Sullivan. [LR128]

SENATOR SULLIVAN: Thank you, Senator Langemeier. And thank you, Brian, for your comments. I suspect that my question is probably something that needs to be asked of

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every person testifying, because I think there's general agreement that we need a plan, but apparently there's going to be a fine line between having a plan that gets put up on a shelf and is never activated or not used effectively to the point...the other extreme of having mandates. I wonder if you have any thoughts on how we can develop a functional plan. [LR128]

BRIAN BARELS: I think that the mandates may be identified in the purposes, if there is legislation providing direction. And the mandate becomes to identify the goals that have to be achieved. And then that allows the river basins and the local water users to figure out the best way to achieve sustainability for their area, if that's a goal. And so then what I think we need to have is, we need to be able to make sure we're all paddling in the same direction. And I think one of the benefits of the state water plan is just what Mr. Rempe said, is that we're going to find out what the needs across the state are. It becomes more difficult in trying to identify the priorities and how our monetary resources can go to solve those problems. But that's one of the benefits of a potential plan is, what are the most cost effective measures that can be implemented and get the biggest bang for the buck, one of the things that needs to be looked at. [LR128]

SENATOR SULLIVAN: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Dubas. [LR128]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Barels for being here this morning. Still being relative new to this whole process and I know there's been a lot of task forces, etcetera, dealing with water in the past, but it seems to me like we are very focused on rural use of water, agricultural use of water. Do you feel that there's been enough of a balance? Are we bringing the urban use, the industrial use, are we bringing that into the discussion also? [LR128]

BRIAN BARELS: Well, I didn't get into the details. I think you'll find that in my testimony.

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We need to bring all those together and find out. I think, again, if we look at the right projects and the right uses, we can take all that into consideration. And, of course, representing NPPD, I think, water for future generations in the state is an important item as well that we need to take a look at. And this is a learning process. I've learned a lot, as I'm sure some of you have as you've dug in this planning. And many states have tried this in many different ways. Of interest, I noted in the state of Wyoming they did a trial basin to start their process. They went out and did a learning session. And this is a big effort. To get the data you need, to find out where you don't have data and maybe need more data, is going to take some time. And I think an interesting concept that Wyoming used was, they did their state study a basin at a time. You know, instead of massive resources all being thrown across the whole state, how can we implement this in a sequential manner and ultimately bring it all together into more of a statewide planning process. So there's a lot of alternatives out there and I think we're all going to learn together as we move forward and find out the right path to follow here. But I do believe we need this planning process to get through these drought periods. And I think we will be surprised at opportunities we find so that maybe we can meet some of the goals in some of these river basins without having to retire irrigated acres. [LR128]

SENATOR DUBAS: That gives me a nice little segue into my next question about educating people. You talk to people in urban areas who say farmers are out there just watering things, you know, just throwing caution to the wind. And then my pet peeve is to drive through urban areas when it's raining and their lawn sprinklers are on. So, you know, how...I think that's an important component is really educating all citizens of the state on water use. [LR128]

BRIAN BARELS: Absolutely. And I think I do have that. Education is critical. It needs to be a significant portion of this whole thing. I had a chance this summer to take a tour in the state of California and they have very, very large quantities of water and, of course, they have very, very large quantities of uses. And I found it interesting that we had an opportunity to have a visit one night while we were there from an organization very

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similar to our Groundwater Foundation in the state of Nebraska to educate people about ground water. That organization in California was there specifically as a nonprofit organization to teach people about surface water in the state of California. And they have lots of surface water in the state of California, so education has to be a very critical component. We all can learn and understand that water use and reuse can also provide the necessary water for the city of Lincoln and Omaha as well. [LR128]

SENATOR DUBAS: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Carlson [LR128]

SENATOR CARLSON: Senator Langemeier. Brian, I've got two questions. In your report you say that it's important for the Legislature to provide funding for a statewide water plan. Specify the source of those funds and actual purpose of those funds. [LR128]

BRIAN BARELS: The...start with the easy one, the purpose. The purpose of those funds is to allow the necessary activities to develop the plan. Because the plan is, what are our water supplies? What's the water supply in this basin, and how is it variable? And what are our water uses and what's the consumption associated with that uses? And then to look at what management activities we can utilize. Whether it's another surface water reservoir that can find excesses two out of ten years. Whether it's recharged to an aquifer so that it can be pumped out at a later time, at sometime referred to as conjunctive management. But there also needs to be outreach meetings. I mean these need...the public needs to have in put into this process so that you bottom up type of a thing. So the goals, the purposes can be set at this higher level but the objectives have to be developed through the planning process. That's going to take meetings. It's going to take time. It's going to take some consensus based activities from some of the basins. Coordination between state agencies, Natural Resource Districts and the public in this process will be critical. The funding and where the funding comes from, I believe,

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as pointed out, that the impacts to the local and state level of not doing this planning, can be substantially economical and have a substantial impact. I think we need to find the funding for this kind of planning from a state perspective so that we can avoid these economic disasters in not having the water, not meeting a compact, whatever the future demands might be of the state. Without it, we could be in real trouble. [LR128]

SENATOR CARLSON: So in, you would say these state funds would be used for education and planning, not for implementing projects in specific basins, that would solve the problem. [LR128]

BRIAN BARELS: Well, the plan should recommend the projects. How they get funded then can be part of the development of the planning process. Again, one of the concepts that was being looked at in the Water Policy Task Force, as Mr. Rempe said, is when you know what these projects are and they come up to the top, you can identify those priorities and make sure that what state funds are going to water development and enhancement get to those most critical projects. So it helps you focus where your limited monetary resources are spent. Can there be cost-sharing? Yes, when I look at the water development agency in the state of Wyoming, all the projects that go forward have local sponsors as well. They either have an irrigation district, a community. In our case, it may be a natural resource district that are also sponsors, and I believe with that, comes cost-sharing. The state of Wyoming doesn't pay for 100 percent of a project when they do a water development project. There's some process that's developed in each state for cost-sharing as you go forward. [LR128]

SENATOR CARLSON: Okay. So try to answer this maybe yes or no. You're saying that it's okay to use state funds for planning, for education, and for implementing and carrying out some projects to a specific area and you're not against cost-sharing. Cost-sharing shouldn't be 100 percent local and zero state. [LR128]

BRIAN BARELS: Correct. [LR128]

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SENATOR CARLSON: Okay. Thank you. Now, the other question was this, and I'm not getting at anything here. I'm just interested. How many wells does NPPD have? Who regulates those wells, and what's the purpose of them? [LR128]

BRIAN BARELS: I don't know the exact number of wells that NPPD has but I would guess that it's probably in the neighborhood of 50 to 100. There's many different uses for those wells. At many of our facilities, power generating facilities, they're water supply wells. They're drinking water supplies. In some cases they are process water. And in a case of Gerald Gentleman Station and Sutherland Reservoir, we also have wells that are there to provide the quantity, supplement the quantity of water needed for running that power plant during a drought. They also help cool the water to meet our, our discharge water to meet our state NPDES temperature discharge limits. So we have wells with a multitude of purposes. In all cases they are regulated either by the state. If it's a public drinking water supply, it comes through the Department of Health and the Department of Natural Resources. And in most cases, those wells are regulated by the local natural resource districts. [LR128]

SENATOR CARLSON: Okay. Thank you. [LR128]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. [LR128]

BRIAN BARELS: Thank you. [LR128]

SENATOR LANGEMEIER: Further testimony. Mr. Welke. [LR128]

REED WELKE: (Exhibit 3) Good morning. I have a few handouts for you. My name is Reed Welke, that's R-e-e-d W-e-l-k-e. I am the water programs coordinator for the Middle Niobrara NRD. I'd like to take this opportunity to give you some information of

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our localized water system drainage basin that I think is important to consider when discussing a statewide water plan. Most of you have seen this information, so I'll try to go...be relatively brief in my description. Some of you may have even seen it two or three times, I think. But I will go through it, nonetheless. What I've done is just try to highlight sort of a unique situation of our surface water system in the Middle Niobrara and Lower Niobrara Natural Resources Districts. I've taken USGS gauging station data from four different gauging stations. One is located near Sparks, Nebraska, on the Niobrara River at Berry Bridge. One is located on Long Pike Creek near Riverview which is a tributary of the Niobrara River in Brown County. One is located near Spencer at the hydropower dam, Spencer, Nebraska, and one is located near Verdel, downstream of the Spencer hydropower dam. And what I wanted to highlight really is the first two gauging stations. I've taken data from the Sparks gauging station which, if you're familiar with this area, it is downstream of where the Snake River enters the Niobrara River and the Snake River is where Merritt Reservoir is located. Merritt Reservoir is the Ainsworth Irrigation Project, Ainsworth Irrigation District Project, which irrigates roughly 30,000 acres in Brown County, Nebraska. There's a period of record from 1946 to 2008 on that gauging station. I've broken it down so the first figure you see is 1946-2008; the second figure is 1946-1963; and the third figure is 1964-2008; 1946-2008 is the entire period of record. If you look at that graph you'll notice a declining trend in flows. And then I've broken it down from 1946-1963. That is the period prior to Merritt Reservoir being built. Merritt Reservoir was put in 1964. So I went 1946-1963, so you have a clear period of record prior to that project, and in 1964-2008. And what I just want to highlight there is that if you look at 1946 to 1963 information, you see it's a very stable flows and a slightly increasing trend. And if you look at 1964 to 2008, you also see increasing flows or slightly increasing trend and very stable flows. A little more variation throughout that time but it's also a longer period of record so that's, as you see, more droughts and what years you would be inclined to see larger variation. So when you take that into account, the period of record prior to Merritt Reservoir and the period of record post-Merritt Reservoir, you see that if you look at the cubic feet per second on the left hand side of those graphs, you see that it has shifted down from

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where it used to be always above 800 cubic feet per second average annual flows. It is now somewhere between 600 and 800, generally around 700 cubic feet per second average annual flows. That's a reduction in flows of around 100 cubic feet per second on average. Now, if you turn the page to Long Pine Creek near Riverview, that is a gauging station that is downstream of where most of that irrigation water...irrigation district water goes. So it irrigates acres upstream of this gauging station. There are several different drainages but they all lead to this gauging station. And what you see for the period of record there, the figure four is 1949 to 2008, you see a very strong increasing trend in flows. It started out around 100 cubic feet per second and now it averages in between 150 to 250, or 200 cubic feet per second. If you take the period of record prior to Merritt Reservoir, 1949 to 1963, you see that it's fairly steady, in between 100 and 150 cubic feet per second. And then if you look at the period of record from 1964 to 2008, you see that after a few years there's a significant trend upward. And now for the last ten years, the flows have been between 150-200 cubic feet per second. And I've done a little further analysis and it's roughly on average, 70 cubic feet per second higher flows at that gauging station than it was prior to Merritt Reservoir being built. So you have a system where we see the 100 cubic feet per second decrease in average annual flows at Niobrara River gauging station near Sparks, and a 70 cubic feet per second increase in average annual flows at Long Pike gauging station near Riverview, in Brown County. Now this...I've talked with several different individuals about the consumptive use of that 30,000 acres that ends with irrigation...roughly 30,000 acres that ends with irrigation district services, and that is roughly what we'd expect the consumptive use of that if it were in corn to be, would be 30 cubic feet per second. So what I essentially wanted to highlight is that although if you look at the entire period of record at Berry Bridge gauging station, you see what appears to be a declining trend. If you break it down pre- and post-Merritt, you see that the graph, or the flows have shifts down around 100 cubic feet per second, but the stability of the system is still there. There is nothing to indicate that the stability is going away. So you've created the possibility for lower lows, and you've created the possibility for the highs or the reality of the highs would more likely be lower. So you've just shifted everything down a little bit,

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but the stability is there. And then in the Long Pine drainage basin you've increased flows and maybe those increases will continue on into the future. Now in the other gauging stations where that system is, it's far enough downstream that this interaction is more or less muted, in a sense. You look at Spencer, figure 7, Spencer gauging station, you see a gradual increase in flows in the trend regardless of pre-Merritt, post-Merritt. It's just relatively stable river system and if you look at figure ten, the Niobrara River near Verdel, I've just made one graph of that, not preimposed. You see relatively stable, lot of variation, but essential stable flow. And I also have handed out some of our ground water information. I've attached this in the form of graphs. If you want to look at those graphs, I have information from water level changes from 2008 to 2009 in the spring and information that we have from the wells measured in 1970-2009. And it shows areas of where we have declines or increases in ground water level. And I've also attached on that long-term graph, or a long-term map, where our irrigated acres are located throughout the basin. So you can kind of draw any correlation, perhaps, there. And I have also included a map of the UNL Conservation Survey Division's long-term ground water trends. And what I really just wanted to do is give you this information because I feel it's important to take into account the uniqueness of systems such as ours when considering such a large scale project such a statewide water management plan. It's...I know the system is unique and I know it's not...it's unique in itself but it's not unique in the fact it's unique. I know that there are many other areas throughout the state that probably have similar situations or situations that need further investigation to, perhaps, explain anomalies in water quantity. And I just wanted to bring this to your attention so that you're aware of the situation and the relative stability of our area when you go forward and try to make decisions on water policy. And with that, I'll take any questions. [LR128]

SENATOR LANGEMEIER: Are there any questions? Senator Fischer. [LR128]

SENATOR FISCHER: Thank you, Chairman Langemeier. Mr. Welke, when you were pointing out the differences through the years and especially the pre-Merritt and the

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post-Merritt on the different gauging stations, you had the station at Long Pine. [LR128]

REED WELKE: Uh-huh. [LR128]

SENATOR FISCHER: When we see the increase there, is that due to recharge?
[LR128]

REED WELKE: I...it's due to both recharge and runoff, increased runoff. [LR128]

SENATOR FISCHER: Why is there increased runoff? [LR128]

REED WELKE: The irrigation district project. There's a lot of...essentially wastewater.
[LR128]

SENATOR FISCHER: Oh, okay, from the fields. [LR128]

REED WELKE: And there are wasteways along the irrigation canal that when flows are
high enough in the canal they will dump water directly into the streams. [LR128]

SENATOR FISCHER: Does the current Nebraska law dealing with water, LB962, take
into account recharge? [LR128]

REED WELKE: Well, the law itself... [LR128]

SENATOR FISCHER: I don't mean to put you on the spot. I'm sorry. [LR128]

REED WELKE: Well, the law itself, I can't say that it necessarily takes that
into...incorporates that. I know DNR uses a variation, different models throughout the
state when they make their determinations as to whether a basin is fully appropriated or
not fully appropriated. The particular model that was used for our area is an analytical

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model and does not take recharge into account. In a model like that, recharge is essentially what is flowing in the stream. That is your recharge. If the ground water system is stable and you're not seeing decreases or increases, your recharge is your stream flow. [LR128]

SENATOR FISCHER: I take it your point on providing us with this information would be that, as you said, each basin needs to be looked at specifically individually. [LR128]

REED WELKE: Individually. And this is a very localized system and it's fairly unique and I know there are irrigation systems throughout the state and no doubt they create situations, maybe not exactly like this, but similar situations that need to be invested. I personally haven't done that, but I'm sure there are individuals who have. But those types of things need to be taken into account when you're trying to deal with a water budget or understand exactly what you have as far as a resource and quantity because if you did not look at...you did not examine the situation, or our system pre- and post-Merritt, it would be very easy to think the Niobrara River's decreasing flows and Long Pine's increasing, what's going on here. If you didn't look at the situation in that time scale you could easily say, if you just looked at the Niobrara, well, we're in trouble, things are going bad, what's going on, why is this happening, the flows are going down, we need to stop this. And then if you looked at Long Pine Creek, you'd say, okay, we're having erosion issues, ground water is rising, how are we going to solve this issue, how are we going to mitigate this. So that kind of information needs to be taken into account when you start a planning process. [LR128]

SENATOR FISCHER: Okay. Thank you. [LR128]

SENATOR LANGEMEIER: Senator Schilz. [LR128]

SENATOR SCHILZ: Thank you, Senator Langemeier. Mr. Welke, thank you for coming in today. And as we look at these, and I have to apologize for not understanding exactly

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where each one of these are... [LR128]

REED WELKE: That's fine. [LR128]

SENATOR SCHILZ: ...but basically what I think that you're saying is above Merritt you seem to be losing some stream flow unnecessarily and then...go ahead. [LR128]

REED WELKE: You would be below Merritt Reservoir on the Niobrara River, so the Merritt Reservoir diverts this water around that portion of the stream. [LR128]

SENATOR SCHILZ: Gotcha. [LR128]

REED WELKE: By-passes that stream gauge and then dumps it in the Long Pine drainage. [LR128]

SENATOR SCHILZ: Right. Gotcha. [LR128]

REED WELKE: So during the summer...and particularly strong during the summer months where you see these declines. And I was talking with Rod Imm the manager of Ainsworth Irrigation District yesterday, and he says that during the summer months when they are releasing flows for the irrigation season, they release 40 CFS in to Snake River continuously. Once the reservoir is full they by-pass what the inflows are, which is roughly 230 CFS. So that's an increase of 190 CFS once that reservoir is full. When they're diverting water, they take it back to the minimum of 40 CFS. And that explains that decrease in trend. Where the stability...and that's why you break that it into pre- and post-Merritt, you still see the stability. You just see that it shifted down on average. [LR128]

SENATOR SCHILZ: Right. And that stability, as you're saying over that whole stretch is actually increasing a bit, correct? Possibly. [LR128]

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REED WELKE: You can say that. It's a weak correlation so that's why I say stability as opposed to increasing because it's a little more foolhardy to just hang your hat on, yeah, it's increasing. [LR128]

SENATOR SCHILZ: Right. [LR128]

REED WELKE: Because it's a pretty weak trend, but... [LR128]

SENATOR SCHILZ: So, but that's what you're talking about when you talk about investigation, is finding out... [LR128]

REED WELKE: Yes, yes. [LR128]

SENATOR SCHILZ: ...what is the real long-term trend in (inaudible) [LR128]

REED WELKE: But an increasing trend makes you feel a lot more comfortable than if it were slightly decreasing. [LR128]

SENATOR SCHILZ: Sure. [LR128]

REED WELKE: Then you would say, well, okay, it's still potentially stable, but... [LR128]

SENATOR SCHILZ: Right. So now let me ask you this. You say that you want to make sure that that's taken into consideration and you're not put into a one-size fits all sort of plan, correct? [LR128]

REED WELKE: Essentially, yes. Yes. [LR128]

SENATOR SCHILZ: Do you see that if it is actually increasing in flows, do you see that

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as an opportunity? [LR128]

REED WELKE: It's potentially an opportunity, yes. I think there are certainly more studies we could do and increased analysis and just monitoring that could be done to gain certainty in decision making. But it certainly does create an opportunity, I think. [LR128]

SENATOR SCHILZ: Sure. And if you could find that, and if it is increasing or even staying static, I mean, it would seem to me that there may be some opportunities going forward to provide some of those, some of that certainty through a further management projects, correct? [LR128]

REED WELKE: Yes, yes, I think so. [LR128]

SENATOR SCHILZ: Maybe not just only for your district but maybe downstream or other areas in the state where you could mitigate and release water for other uses possibly. [LR128]

REED WELKE: Yeah. [LR128]

SENATOR SCHILZ: As long as you got paid, right? [LR128]

REED WELKE: Oh, yeah. (Laugh) [LR128]

SENATOR SCHILZ: You're not opposed to that? [LR128]

REED WELKE: It's a possibility. I'm personally not necessarily a proponent of shipping water all over the state but... [LR128]

SENATOR SCHILZ: But let's ask it this way. If you didn't have to ship water all over the

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state and you could mitigate one use with another use of being put in to go downstream, that's kind of what I'm thinking. I don't...let's let the rivers and everything do the shipping. We don't want to do that. [LR128]

REED WELKE: Yeah, yeah, absolutely. [LR128]

SENATOR SCHILZ: Thank you, sir. [LR128]

SENATOR LANGEMEIER: Senator Haar. [LR128]

SENATOR HAAR: Thank you, Mr. Welke, you're a young man and I admire your reliance on data. I think that's going to be really important to try to answer a lot of these questions with data that can be collected and explain things. And I'm old enough now that I don't worry nearly as much about my future as I do about your future and the future of my grandchildren. What are your concerns about water in Nebraska during your lifetime and career? [LR128]

REED WELKE: Well, honestly, one of my chief concerns is that long-term, is that money and interest will be strong enough across state lines to tap the great resource that we have through large scale projects. That's probably one of my largest concerns. Within the state I would say just doing everything we can to maintain the quality and quantity that we currently have available. We can't...it's very tough to go back in the past where if there is an area where you have decreased ground water levels or surface water flows, it's very difficult, as we've seen in certain parts of the state, to rewind the clock and try to get back to a previous state. So the concern is, for me, is to maintain as much as possible the current state of things, while also allowing the potential for future development in the economic sector and the agricultural sector potentially. But striving to find a balance that doesn't necessarily cut one off from the other. To be truly fully appropriated, I guess, would be what I'm looking for. [LR128]

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SENATOR HAAR: Well, thank you. I appreciate your involvement in this issue. Thanks so much. [LR128]

REED WELKE: But truly fully appropriated. [LR128]

SENATOR HAAR: Yes. (Laughter) [LR128]

SENATOR LANGEMEIER: Very good. Thank you very much for your testimony. [LR128]

REED WELKE: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Lamb, welcome back. [LR128]

HOWARD LAMB: Thank you. Howard Lamb, L-a-m-b, like sheep. I'd like to...I'm sure Deb has already welcomed all of you here but let me add my welcome and I'm impressed. I've seen these outstate hearings where three senators and eight people show up. You should be commended for the interest generated. And also especially that we've got our urban senators here. It's really tough to get urban senators out this far and we appreciate that very much. I would suggest that people speak up because if you're deaf like I am and you're sitting in the back, you can't hear you, you can't hear. (Laughter) Or at least I couldn't hear very much. My remarks are very brief and very general and I don't take tough questions. (Laughter) Just soft questions. But my...I sat on this committee for a number of years and my attitude at that time and still is that we have this great natural resource in Nebraska called water and we need to use it or lose it. You know, I like to compare it with coal. And coal is a great natural resource that Wyoming has. They have the coal, we have the water. But you know, every kind of coal that goes out of Wyoming has generated jobs, has contributed to the economic development of the state, and besides that, they get a severance tax when it goes across the line. But now in Nebraska, now the numbers I remember from way back, are

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that there's a million and a half acre feet flow into the state and about six and a half million acre feet to flow out. I'm sure those numbers are not correct at this point because we've had a drought. There's probably less flowing in and less flowing out. But anyway, those numbers mean something to me in that while Wyoming is getting paid for that natural resource, this...much of the natural resource that we have, water, is just flowing out of the state and going down to the Gulf of Mexico. So, you know, the intricacies of how you develop this resource is up to you and not to me and I'm glad that's the way it is. But, in general, I'll just repeat that we need to use that. Now we need some for fish, some for recreation, but I think there's a tremendous opportunity for industry, for agriculture, to use some of this water and frankly, I hesitate, I have reservations about having too much involvement by state and federal agencies in regard to our water. So, again, thank you very much. Any soft questions, I'd respond. (Laughter) [LR128]

SENATOR LANGEMEIER: Are there any...? Senator Haar. [LR128]

SENATOR HAAR: Thank you. Senator Lamb, I'm a new senator. [LR128]

HOWARD LAMB: Yes, but...and you're young. I heard you say to this young man that you're old. (Laughter) But everything is comparable, you know, and so I look at you as young. And I remember when you were around Lincoln a lot... [LR128]

SENATOR HAAR: City Council. [LR128]

HOWARD LAMB: ...and doing a lot of things. [LR128]

SENATOR HAAR: Yeah, Well, okay, that's an important perspective, thank you. Well, first of all, about 80 percent of my district is urban but I'm really pleased to be here because I think it's important that all of Nebraska look at how we all have to work together. So I'm very pleased to be here. I appreciate that Senator Langemeier has put us on a tour of western Nebraska because there's parts of that that I don't understand

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as well. Just another...one of my emphasis right now, the other great resource besides water is our wind. [LR128]

HOWARD LAMB: Wind. Let me get...I've been reading the papers. (Laughter) [LR128]

SENATOR HAAR: Well, some of the recent studies show that we're perhaps number three in the nation in terms of wind potential and I think we have to use that as well. Now, I have a...my final question. This is not necessarily easy. (Laugh) With term limits right now, and water issue being...well, somebody told me when I joined this committee that whiskey's for drinking, water's for fighting. (Laugh) And it's very political obviously and the policies that we put in place. With term limits in place and people coming and going in eight-year time spans, how do we build in that history of that it's important to keep important water policy going? [LR128]

HOWARD LAMB: Very difficult. I've opposed term limits from the beginning and now we're about ready to lose our Senator Fischer who is a very effective person down in the Legislature and very knowledgeable. And we're going to lose a lot of people. In, you know, two terms, is eight years, that's not very long to develop a lot of expertise. I remember when Senator Kremer, Senator Warner, who were there for years, and we looked up to them because they had the perspective. They knew what had happened before and it was a valuable resource and I don't know. I don't know how you can do it with term limits but it will probably be taken over more by private concerns or private groups, you know, like Farm Bureau. They were here today. NPPD will probably have a greater voice. Other organizations like that that really have a consistent voice in the state will take a greater role. But that doesn't mean that you people can sit around and twiddle your thumbs, you know. (Laughter) You need to face up to these questions and try to answer them. [LR128]

SENATOR HAAR: Thank you very much. [LR128]

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SENATOR LANGEMEIER: Other questions? Senator Schilz. [LR128]

SENATOR SCHILZ: Senator Langemeier, thank you. Senator Lamb, thanks so much for being here this morning. As Senator Haar said, you know, being out here in western Nebraska tomorrow, we'll get him almost out to western Nebraska to Ogallala. (Laughter) But as you said, and I don't want this to be a difficult question but you're talking about...are you talking about creating an economy around water to where water marketing, things like that? Or are you....when we talk about that are you...is that one of the perspectives that you're talking about and thinking of how do you fund these? [LR128]

HOWARD LAMB: I'm really talking about industries that use water, agriculture, you know, generating electricity, ethanol uses water, and industry that uses water should be welcomed and not turned away because we think, oh, we may some day run out of water. Well, you know, unlike coal, coal really doesn't replace itself, at least not very fast. Water, we're getting some of it right here today. It's a replenishable resource and, you know, in my long life I've seen these cycles of, and you have too, of drought and then rain. And we get all excited about the lack of water when we have a few dry years and then all that excitement kind of goes away when we have five or ten years of wet weather. And so, yeah, we have to be concerned about the quantity of water in the state but let's not be overly concerned and back away from using it. [LR128]

SENATOR SCHILZ: So it's not just term limits that affect our ability to manage our resource wisely? [LR128]

HOWARD LAMB: No. (Laughter) No. [LR128]

SENATOR SCHILZ: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Fischer. [LR128]

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SENATOR FISCHER: Thank you, Chairman Langemeier. I just wanted to say, welcome, Senator Lamb. It's always a pleasure to see you and be in contact with you. And I always appreciate your insight, so thank you for being here. [LR128]

HOWARD LAMB: Thank you. Thank you. Did you know that Senator Fischer's father was head of the Department of Roads? [LR128]

SENATOR LANGEMEIER: Yes. She has reminded us on an occasion or two.
(Laughter) [LR128]

HOWARD LAMB: Now she's Chair, she's Chair of the Transportation Committee.
[LR128]

SENATOR FISCHER: I seem to be following in Senator Lamb's footsteps. He was the first chair of the Transportation and Telecommunications Committee and served for many years in the Natural Resources Committee, so it is an honor to follow in your footsteps. [LR128]

HOWARD LAMB: Well, you know, she followed me just to see that I was voting right. See, she kept me on... (laughter) [LR128]

SENATOR FISCHER: I kept tabs on you. [LR128]

HOWARD LAMB: She kept me on the straight and narrow for a lot of years. She's had a great interest in Nebraska not politics but state government a lot of years, 20, 25 years.
[LR128]

SENATOR FISCHER: So enough of the lovefest, but it is always, always a pleasure to see you and your wife. Thank you. [LR128]

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HOWARD LAMB: Thank you. [LR128]

SENATOR LANGEMEIER: I don't know that you're quite done yet. Senator Carlson.
[LR128]

HOWARD LAMB: Yes. [LR128]

SENATOR CARLSON: Senator Langemeier. Senator Lamb, I'm going to use a little bit different figures than what you did initially. Whether I'm right or not, I've been saying we have a million acre-feet flowing into the state and 8 million flowing out. [LR128]

HOWARD LAMB: That could be. I don't know. I don't have the latest numbers. I'm out of date. [LR128]

SENATOR CARLSON: Well, in this day and age with our technology and our ability, we ought to be able to store or divert or move water to a position where there's plenty and we can use it. The only thing that costs is money. Should state dollars be used to solve local situations in relationship to shortages of water? [LR128]

HOWARD LAMB: You know, I would have reservations about that. You know, I like to see private enterprise handle it. I don't know if that's possible or not but, you know, when you get in the state dollars, where do you quit? Where do you quit? So it's a problem and maybe that's not right, maybe this state should be in it, but from my own conservative standpoint getting the government involved with it is really not the way to go. [LR128]

SENATOR CARLSON: Well, I think there's a risk there and, paralleling with your conservative nature, I would think you'd also believe that local entities that are affected that want to solve their problem should have a funding mechanism that they can. Would

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you agree with that? [LR128]

HOWARD LAMB: Well, I'm not going to say a blanket yes because it depends a lot on what the funding mechanism is. If you're talking about property taxes, I'm going to say no. If you're talking about some tax that affects Senator Haar, well, maybe, maybe (laughter). [LR128]

SENATOR CARLSON: So if a local NRD has got a difficult water problem to solve and there don't appear to be state dollars available to do it, you don't believe that a local property tax should be able to be used, and I guess the Supreme Court is going to agree with you on that. What about any other form of funding so that a problem can be solved rather than a business closed? [LR128]

HOWARD LAMB: Okay. All right. I would just repeat that I would have a serious reservations about it and, you know, we're not...the devil's always in the details, but in general I would certainly have deep reservations about, well, for instance a property tax on everybody in the NRD that would benefit maybe only a few people. That causes me a problem. [LR128]

SENATOR CARLSON: Well, you bring out what is a very, very difficult problem because the end result, if there is no source of revenue, is business doors close. And a lot of us are really concerned about that. [LR128]

HOWARD LAMB: I can understand that and I know something about your district, but let me just throw this out: Is a cooperative agreement, a corporation within the realm of possibility? You know, I'm going to benefit from it, my banker is going to benefit from this. We're going to farm a cooperative. We're going to do what is necessary to transport that water, but we're not going to dig into state funding. We're going to do it on a private enterprise basis. I don't know if that's possible, but that's the way I would like to see it go. [LR128]

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SENATOR CARLSON: Well, I agree with you in that that needs to be available to go that way, otherwise if my well gets shut off, my banker is not going to be happy and I got to pay for that well, so I'm not going to be happy. And if it's like there's a law between us, it's a terrible problem and that's what we're facing. So I didn't mean to prolong your response to this, but I appreciate your discussion. [LR128]

HOWARD LAMB: Well, thank you. [LR128]

SENATOR LANGEMEIER: Senator Haar has some questions. [LR128]

SENATOR HAAR: Yeah. Just one further comment on renewable energies. Wind and solar will save, at least nationwide, a huge amount of water use that we now use in terms of power generation. So I see not only harvesting the wind, but also saving water in that same process. Thank you very much. [LR128]

HOWARD LAMB: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Lamb, thank you for your testimony. Come on up. And as we're moving it through time, we'll remind people of the lights. When you get to the red light, you need to resolve and then let people ask you questions. Welcome. [LR128]

RON WOLF: Mr. Chairman, members of committee, my name is Ron Wolf, W-o-l-f. We're the poor wolves, we don't have the "e." (Laughter) We...you've asked for some details on what is a water plan. And there's a group, the Nebraska Water Resources Association, we've been discussing this. We're comprised, our membership, cities, power, recreation, surface water, financial, groundwater, business and industry, legal, and ag. I think that's part of what you have to have involved. I don't know about the environmental interests, but we've come up with a few "think about these, please" deals.

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There's a lot of knowledge, experience out there. I think consultants or a set of facilitators might be a good place to start. Bring people together. You're going to need all these various entities who among them will probably be able to identify a lot of the needs and problems. Where the prioritization of those comes in, I think that's part of where the state needs to be involved. Some issues are strictly local, some may be larger, but you need that input. You've got a lot of data out there. You've got a lot of gaps. You might consider involving the university. Some of the previous plans, water plans, may be looked at to fill some of these gaps. Conflict resolution involving some of the entities and interests varied up front I think will help resolve that, but you need to have a plan because any time your goat gets fat, my ox probably got gored. We're going to have a conflict. So you need to be thinking of a process of a way to make this come together. There's some projects underway; there's some plan; there's some needed. There's some that we probably can't even envision until people start setting down and pulling data together and opening these doorways. I know this is...I don't like plans. People tend to use...some people tend to use plans to stall off action. But I think if you're going to start a plan, start it. Please think about something on this order so that you've got a lot of the up-front stuff up front. I'm leaving the hard part until last. I think this committee...it would be good to discuss with these interest groups and among yourselves. I have to agree with Senator Lamb. Even when he was in the Legislature I didn't care for state government too much. So I've enjoyed about all of it I need, but I do think you need an administrative agency, commission, or something or this will become, as you mention, another document, very impressive, it'll lay there and gather dust. You need to decide, should it be a code agency? There's pros and cons to that. And I'm sure you're aware of that more than I am, Senator Langemeier. Or should it be maybe a commission? And there's pros and cons to that too. Maybe you could look at...we all make mistakes. One I made was I thought it would be a good deal to merge the Department of Natural Resources and the Natural Resources Commission. It's put that whole department in a bind. They're, on the one hand, responsible for advocacy; on the other hand, they are the hearing officer if I come to them with a plan. This is not good; it's not a good situation. Maybe take a look at splitting that into a state water planning

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agency or commission who can advocate to the Legislature and others, help your local entities if there's cost share, get something on the books, get it moving, and on the other split leave an administrative and regulatory agency. These are three of the options we've discussed among the varied interests here that...I see my time is up. Thank you. You got me out of the funding. We had some stuff there that we had talked about, but if I can answer any questions, I'll sure try. [LR128]

SENATOR LANGEMEIER: Okay. Are there any questions? Are there any questions for Mr. Wolf? Senator Carlson. [LR128]

SENATOR CARLSON: Senator Langemeier. Ron, I'll just ask you, what about funding? [LR128]

RON WOLF: (Laugh) well, you're going to need some seed money right up front because if you get the right kind of facilitators, it's going to take them, (1) the right personality, somebody with some experience, knowledge, history. Maybe, (2) maybe you need somebody like that from the legal side because right now we've got water laws scattered through I think every chapter except adoption in the books, and some of them are a little contradictory. LB962 cleared up a lot of that, but there's still a lot of that out there. So you may want...or an action that's being looked at may benefit from some up-front consultation. On the other hand, some water experience. And these...like I say, there's some people out there. I don't have permission or anything to mention anybody's names, but they're out there. I don't think it's a bank buster, but to make this work, you're going to have to be able to pay them, you're going to have some meeting expenses, and depending on what the Legislature decides on how to set this up, you're probably going to need some basic administrative and support staff to start with to track this stuff, scheduling, put it together. I think that should be under the old side of this committee. I think...I don't know how you folks do it. I do it every time I sign a note at the bank; I make what is called a "commitment to continue to fund." The banker doesn't seem to give me any choice when that payment is due. He doesn't truly care where I go

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get it, but I will go get it. And I think that's one of the things that's been lacking in these state water plans is, (a) legislative intent to fund for the duration until something moves. I think you need the continuity. Senator, you asked about that. Without the continuity, without...you can have the plan. All right. Now you got it, let's do this first, let's do this second, get the money, let's roll. I don't care for taxes either, but with proper implementation of a good state water plan, you help not only ag taxpayers, you help municipal taxpayers, you remove some of the risk if you've got a plan and you know where you're going. I may not be in a position that I'm going to sink a well that five years later I'm not going to be able to pay for because it's getting shut off. It will pay you back, correct? Water plan and follow actions to it I think will pay this state big returns. That's one of the tough ones I see, and I agree with the previous speakers. One size doesn't fit all. I've been told there's more climatic change from Harrison, Nebraska, to Falls City than there is from Falls City to the east coast as far as pole climatic change. That's not very many isobars on a map, so you can split it east/west by river basin, then you need to split it north/south by your isobars. You may be looking at some very site-specific instances. Did I get there on the funding, Senator? [LR128]

SENATOR CARLSON: Well, partially. Now, I'm going to say something here and I don't want to step on any toes, but I'm a little concerned about some things you said. I'm a little concerned about a couple of things that Senator Lamb said. A lot of us at this point over the last few months have decided that the federal government is out of control. You're spending too much money, there's no end to it. We're concerned about loss of freedoms. we're concerned about loss of the privilege of making decisions. I think you're tracking with me here. [LR128]

RON WOLF: Very much so. [LR128]

SENATOR CARLSON: You made the statement initially something to the effect that you don't much like state government, and that's probably because you don't like to have mandates rammed down your throat. You want an input into how decisions are made.

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On the other hand, I kind of hear that we need a state water policy. And if we have a state water policy, somebody has got to make that decision and that decision is probably going to be the state. But then I also hear you're kind of reticent to have things funded by more taxes. I don't even argue with that. But that's the constant conflict as we move along. If we have a state plan, it needs to be funded. Somebody has got to fund it, that's probably tax dollars. We're individuals; we like to solve things on our own initiative, but we've got to have the freedom to do that. So there's a struggle there and I don't really hear an answer. [LR128]

RON WOLF: Let me rephrase the "I don't care for state government." I don't much like any government (laughter) because... [LR128]

SENATOR CARLSON: I caught that, that's what I caught. [LR128]

RON WOLF: ...I like to be able to do what I want to do. On the other hand, I do realize there are times that what...that my desires may not be helpful to the community or Senator Haar's needs maybe shouldn't take precedence over the whole state, hence we have a state government. One of the responsibilities of state government is to garner funds with which to properly operate this state. I don't care for any taxes either. I don't even like local taxes. But there are proper uses for tax money, one of which is to avoid problems, another of which is anytime you have a workable plan that you can bring multiple interests together on and fund it, you remove risk. Those tend to pay you back in a society like we've got today. If you can remove risk, show sustainability, which is the ability to use all of it you can without screwing it up. I heard you ask for a definition. [LR128]

SENATOR HAAR: (Laugh) That's a good one. [LR128]

RON WOLF: That's, you know,...don't stop...we can't stop development in the state. That's just not going to work. Maybe we have to develop a little different...I don't

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know...we need...I can't do it as an individual, I don't know as any of you can. As a legislative body we can get some direction, I think. [LR128]

SENATOR CARLSON: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Schilz. [LR128]

SENATOR SCHILZ: Thank you. Mr. Wolf, thanks for coming in today. Let me just ask you one question. With all that you've said before about your dislike or distaste or whatever for government, from what I take from you is that if you're going to do this, that if you're going to set up a plan, you want to make sure that it's more of an enabling plan rather than a put the screws to you kind of plan so that people and individuals have the flexibility to do on their own land the things that make sense to them and also possibly provide for the betterment of the system overall. Correct? [LR128]

RON WOLF: I think you're going to have to, Senator. Again, one size won't fit all. You've got a lot of local resources--NRDs, the university, USGS--that can give you some background data that may give you an inkling of where should we go in this area. I'd like to see you lean on the local approach, maybe basin, maybe even subbasin, it depends on the situation. But, yes, I agree with you. I don't like mandates. I think you need some local input. And I agree with Mr. Barels. One of the things you might look at is if you have an arm that can advocate for projects along with local entities, maybe the state could look at some state funds being involved if it's in the state's interest, if it's not, if it's going to put all the money in my pocket, then I should have to pay for it. [LR128]

SENATOR SCHILZ: Thank you. [LR128]

SENATOR LANGEMEIER: Okay. Very good. Thank you very much, Mr. Wolf. [LR128]

RON WOLF: Thank you for your patience with me again, appreciate it. [LR128]

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SENATOR LANGEMEIER: Thank you for your testimony. Very good. Joe, come on up.
[LR128]

JOE ANDERJASKA: Thank you. My name is Joe Anderjaska, J-o-e Anderjaska, A-n-d-e-r-j-a-s-k-a, just like it sounds. As I said, my name is Joe Anderjaska. I am in my third term as a board member of the Middle Republican Natural Resources District, and the district representative to the Board of the Nebraska Association of Resources Districts where I currently hold the office of vice president. This testimony is offered in a neutral capacity toward LR128. Groundwater and surface water have developed under two entirely different systems in Nebraska. Our first attempt to manage these waters together was in LB108 in 1996. While the legislation never really had the opportunity to be utilized, the later attempt at integrated management through LB962 has seen the test of fire. Our integrated management statutes have been and will need to be continually updated to meet the needs that arise. These integrated management laws set up state water plans in each of the river basins in Nebraska. The NRDs have met the challenge of LB962 and with the state have adopted numerous integrated management plans. Nebraska is still lacking in reliable and continuous funding mechanism to assist both the state and the NRDs in addressing integrated management. While the decisions can and have been made at the local level, often there is not sufficient funding to adopt the programs that are needed. While I don't think there needs to be a major effort toward a state water plan with regard to the resource, there is a need to bring together a system that can prioritize and fund projects for long-term management of our water resources. Thank you. [LR128]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Schilz.
[LR128]

SENATOR SCHILZ: Thank you. Joe, thanks for coming in today. I just wonder, being from the Middle Republican and all the issues you have there and we always talk about

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funding and how difficult that has really been to find what we need, do you see that there would be a possibility going forward if a plan was done correctly that the management of the resource itself could provide the incentives to be able to go out and afford some of this that's going on? [LR128]

JOE ANDERJASKA: Yes. [LR128]

SENATOR SCHILZ: And what I'm saying is, is what we've talked about before where we're managing the water or watering the resource in times of plenty for times of not so plenty. And I'm not saying that we should throw a tax upon it or anything like that, but what I'm saying is that if you can stabilize the groundwater or increase the groundwater in a certain area, are there enough economic benefits from doing that to make up for what it's going to cost going forward over a long term? [LR128]

JOE ANDERJASKA: You know, that's a really tough question because in the Middle Republican we can't allocate ourselves out of the situation we're in, and if we try to do that I feel that the economic outcome of it is disastrous. [LR128]

SENATOR SCHILZ: Right. [LR128]

JOE ANDERJASKA: You know, I think that the people in our district have come to a sad realization that the amount of water that we have is kind of what we're going to need, and they...we're kind of backed up into a situation now where the options are pretty limited, if there are any options. And as a district, I think we're on the right track. We've done a lot of things very positive and we're taking care of the situation, but our biggest problem is funding. And I think the people in the district have realized that when it comes to paying more taxes or not having any water that they're willing to pay the taxes. And I guess we would like to see the occupation tax changed so we could use that. And when I went on the board nine years ago...I think in nine years I've voted yes on two budgets. I hate taxes. But I also look at our district and we won't have a district out there

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if we shut the water off, you know. If we go down to a five-inch allocation or if we use our red box and shut off alluvial wells, we won't have a district out there. You know, it will be terrible. So if we look at it, you know, (inaudible) a lot rather pay \$10 an acre for 15 years to get some of these programs paid for? Yeah. I'll do it. [LR128]

SENATOR SCHILZ: Um-hum. And then when you talk about these programs, what are...are those programs looking forward in how to create a more sustainable system as we move forward? [LR128]

JOE ANDERJASKA: Right. [LR128]

SENATOR SCHILZ: Or are they just looking to pay irrigators not to irrigate that year? [LR128]

JOE ANDERJASKA: No, no, no. [LR128]

SENATOR SCHILZ: I think that's a misperception that may be out there. [LR128]

JOE ANDERJASKA: Right, I think it is too. Yes. Yes. No, we're looking at, you know, at being sustainable to the future. You know, that's...when I went on the board, you know...I am a rancher and a farmer. I have one irrigation well which is planted in the grass. I think of myself as a cattleman not a farmer, but I do farm. But on the board, I was looking at it, you know, trying to protect everybody's livelihood, but I had a newborn baby and, you know, I have to look at it, a hundred years isn't very long for that little baby. You know, I want him to be able to go to the sink, get a glass of water. You know, I want...my neighbor has no farm ground for that windmill to pump all the time to have those cows have water. I mean, you know, we have to look at the broad spectrum. You know, I've worked really hard with industry and municipalities in my district to try to make it fair for everybody. And, you know, with the occupation tax, is it fair? You know, I don't know. Maybe. Maybe not. You know, the irrigators are the biggest user of the

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water. So they will be the one paying the brunt of the tax. But you look at it, the people in the city, you know, in my district if we don't have irrigation water, the city of McCook is not going to last very long. You know, that rancher is sitting there with no farm ground. He needs a place to run his cows in the wintertime. He rents his irrigated corn stalks. You know, it effects everybody in our district, but I think that the people using the majority of the water are willing to step up and pay the bill. [LR128]

SENATOR SCHILZ: Right. Thank you. I think it's absolutely essential that wherever you are in the state that you find ways to come upon because anytime there's a water-short year, if you have to go to the bank to find money to pay people to shut off, I think it's a losing perspective... [LR128]

JOE ANDERJASKA: Right. [LR128]

SENATOR SCHILZ: ...long term going forward and I hope that the NRDs down there...well, all over the state understand that because you can't just continue to spend money that way without doing some proactive stuff on the other side to make it work. [LR128]

JOE ANDERJASKA: Right. [LR128]

SENATOR SCHILZ: Thank you very much. [LR128]

SENATOR LANGEMEIER: Senator Carlson. [LR128]

SENATOR CARLSON: Senator Langemeier. Joe, You're in a basin that you're faced as a board member of an NRD with solving a problem...well, you can say you didn't create it, you had a hand in it, but you had nothing to do with that agreement or that compact that's got to be adhered to. So it's your responsibility to try and see how we best contend with this challenge that's in front of you. Correct? [LR128]

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JOE ANDERJASKA: Um-hum. [LR128]

SENATOR CARLSON: And probably you think, as many of us do, that that's a state obligation. Realism tells you that you have a state obligation, but the state is not going to solve it probably in the way that we would best see it solved. But you made a statement that we can't further allocate ourselves into...you didn't use the word "compliance," but I think that's what you meant. [LR128]

JOE ANDERJASKA: Right. [LR128]

SENATOR CARLSON: What do you mean by that? [LR128]

JOE ANDERJASKA: We could shut off every well in the Middle Republican and we're not going to get anymore water in that stream. You know, when people look at all the upland wells, yes, they do have an effect to the stream, but it's a very long-term effect. And with the programs that we have in place, you know, we're looking at that. That's in our programs, that's in, you know, our plans. But, you know, our water-short year to say that we're going to go in and shut everybody off, you know, the upland wells, it's not going to do any good. You know, if we set ourselves down at a five-inch allocation, there will be more water in the stream but then there's going to be a lot of years where there's way too much water running down the stream and we have people going hungry, people without jobs because they don't have enough water to irrigate their crops and to use the water efficiently like they need to use it. [LR128]

SENATOR CARLSON: Are you saying...I don't think you are, but it sounded like it, are you saying that a five-inch allocation is no different than a zero allocation? [LR128]

JOE ANDERJASKA: Oh, it's some difference, but it's not the answer. You know, in our district five inches is less than half enough. So, you know, what are the people

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supposed to do? Do they raise half a crop that they cannot collect irrigated insurance on because you have to be able to apply enough water on that crop to meet your APA going into it or do the people plant, you know, less than half of acres and, you know, put on 12 inches that they need for that crop? You know, economically it's not going to work. [LR128]

SENATOR CARLSON: So you really don't see any difference between a five-inch allocation and a zero allocation? [LR128]

JOE ANDERJASKA: I don't. It won't work in my district... [LR128]

SENATOR CARLSON: You won't vote on it... [LR128]

JOE ANDERJASKA: ...all of our districts. [LR128]

SENATOR CARLSON: Will you vote for a zero allocation? [LR128]

JOE ANDERJASKA: No. [LR128]

SENATOR CARLSON: Good. And our discussion here, it's just further bringing up the difficulty of this problem and the necessity for a local group to have some way to fund a solution, long term. Thank you. [LR128]

SENATOR LANGEMEIER: Senator Haar. [LR128]

SENATOR HAAR: Thank you. The question I have is this: Senator Carlson has a program for removing invasive species and I voted for that, being, again, most of my constituency is urban. Do you think...and you talked earlier about people stepping up to the plate, do you think payment for that sort of program should be statewide, as I voted, or do you think that should...payment for that should be more local? [LR128]

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JOE ANDERJASKA: No, I think statewide. You know, I firsthand see the benefits of it and it's tremendous. You know, it's a program we need to work on statewide. [LR128]

SENATOR HAAR: Good. Thank you. [LR128]

SENATOR LANGEMEIER: Joe, I'm going ask you one question. First of all, I want to commend you as the NRDs, the role of being on an NRD gets tougher and tougher and tougher, and then you had to run for school board on top of it. (Laughter) [LR128]

JOE ANDERJASKA: I got appointed to school board, so I didn't run. [LR128]

SENATOR LANGEMEIER: Oh, well, still serving that role. When you talk about the zero to five inches you had with Senator Carlson and a crop, you're talking about irrigated corn, correct? [LR128]

JOE ANDERJASKA: Yeah. You know... [LR128]

SENATOR LANGEMEIER: Would not five inches be adequate for irrigated wheat? [LR128]

JOE ANDERJASKA: No. No, you know...well, you know, I guess it's how you want to look at it. You know, you could probably put five inches on irrigated wheat, but your yield is going to be the same as dryland pretty much. I mean, I just really don't see, you know, a boost in yield at all. And that's something I guess I need to really commend the people in our district. You know, we went from being able to use all the water that they wanted to putting on meters to being allocated. You know, and our allocation has dropped now. And those people, they've really become better farms and better stewards, you know. A lot of rotations have been put into place, you know, like me with my irrigated grass. You know, last couple of years with corn prices, you know, my

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banker sits there and shakes his head. You know, it doesn't look very smart. But I get by with, you know, pretty small use of water on that grass. And that's the way with a lot of the rotations that are put in place. A lot of the farmers have done it to save water and not looked at the economic side of it because they haven't always planted the crop that was going to make them the most money. They've planted the crop that they've needed to, to get by with the amount of water that they have. So not only are the farmers willing to pay the extra money in taxes but, you know, they've really stepped up to the plate because there's a lot of income that they've passed up on, you know, by some of these rotations that they've implemented. [LR128]

SENATOR LANGEMEIER: Okay. Thank you very much, did a great job. [LR128]

JOE ANDERJASKA: Thank you. [LR128]

SENATOR LANGEMEIER: Further testimony on LR128. Mr. Fanning, welcome.
[LR128]

JASPER FANNING: Thank you, Senator Langemeier and other committee members. My name is Jasper Fanning, J-a-s-p-e-r F-a-n-n-i-n-g. I'm the general manager of the Upper Republican and Natural Resources District in Imperial. I have a Ph.D. in agricultural economics, grew up on a farm northwest of Benkelman. I'm one of those irrigated farmers that you were just talking about there, too, there in the Republican facing all of this issue, but it's my day-to-day job to kind of have a role in that. And I want to thank some of the senators for their good questions about the Republican. And this isn't necessarily a hearing on the Republican, but I think a lot of the things that we're doing in the Republican Basin go into a statewide water plan. First of all, I'd like the committee to recognize all of the planning that's done across this state currently. I think it's important if you're looking at a state water plan that we recognize all that we do in Nebraska. Secondly, a lot of other western states have developed state water plans and a lot have not developed a formal state water plan. Now, each of those states including Nebraska

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that doesn't have, if you will, an ongoing state water planning process has done significant water planning at a regional and local level. And I think in Nebraska, especially given our NRD system and the uniqueness between river basins as well as even within river basins, requires that if we look at a statewide water plan that we do it at the local level, if you will, take the uniqueness of the resources and work up from there. I want to remind the committee, a few years back I witnessed and was somewhat involved with a group of water policy task force members, put great effort into identifying projects, if you will, that Nebraska might need to undertake to implement LB962 and some of the funding requirements. To be quite honest, when that was compiled there was sticker shock in terms of the money necessary to manage water in Nebraska, and that didn't go anywhere. And I'll just say right now that if that's going to be the purpose of the statewide water plan to identify projects that need to be undertaken and their funding mechanism, if we're going to have sticker shock, we may not want to use the resources to develop the plan in the first place. But if we're going to seriously set down and take a look at how we manage water in this state moving forward in a proactive manner, it could be a worthwhile endeavor. But we have to make sure that we do it right. As previous testifiers said, we don't want something that just sits on a shelf and nothing is done in the past. But I did a little bit of research on what other states have done and, by and large, there's about ten states in the western U.S. that have a formal water plan. There's about a half a dozen others that have some regional planning but maybe not something titled a formal state water plan. And their objectives and what they try to accomplish in the state water plans is very diverse. I would say that the common things are fulfilling a legislative mandate. There were some that were real generic. We created a plan because the Legislature said we had to. They didn't look very useful to me. Another common objective was educating decision makers and the public, which there is, you know, a lot of current educational things that we do in this state to keep folks informed about water and those kinds of things. It was somewhat of a compilation, if you will. Within Nebraska we have a lot of existing work and planning that's out there. Some of these state plans simply took that regional planning and compiled it into one document. Is that a useful use of resources? I'm not sure. It's already out there. Do we

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need to spend a lot of state dollars to simply pull it into one document? I think one of the things that some of the more dynamic, aggressive, forward-looking plans had was that it was designed to be a strategic plan that was developed for policy and project development, including funding. And I think some of the better plans that I looked at quite well linked the local and regional planning and project development to state funding, and there was this link between identifying projects and their benefits and their values and state funding. They were moving forward with projects. I'd say maybe the biggest drawback that we have in Nebraska is we have a little bit too much water and that's a good problem to have. But in other states in the arid west they are dealing with very much more critical shortages, if you will, and so sometimes it's a matter of having no water or doing this project. They're bringing water in for all sorts of reasons to other parts of the state that wouldn't otherwise have a water supply, often surface-water projects. But those states are much more aggressive in proposing projects, identifying projects, and putting them on the ground than we are here in Nebraska. Senators have already mentioned that in Nebraska we have 1 million acre-feet of water coming in and about 8 going out. But I think that the linking the plan to funding and actually putting projects on the ground is critical to have a valuable plan for Nebraska. I think it has to involved the local people, the local people up. And questions were asked earlier about how should we fund water in Nebraska, there's only one thing that makes sense to me, and other states use this as well. Find a tax source, it's obviously going to be tax based somewhere, somehow, but find a tax source that nonresidents of the state of Nebraska at least pay a percentage of. Move that cost to nonresidents of Nebraska as much as we can. The best taxes for Nebraska are those that other states pay, similar to the example for Wyoming coal, the excise tax. Let other states...they let other states and residents of other states pay for their projects. We may not be able to do that to the same extent, but those are the types of things that we need to identify. Let those other people who actually benefit from water outside the state of Nebraska...I'd hate to guess at how much of the corn produced in southwest and south central Nebraska goes to Colorado and Kansas to feed livestock in those states. A bunch. But the thing that we need to keep in mind as we move forward is that projects are cheap, water projects and

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management are cheap. Whether it's tens of millions or hundreds of millions, those projects are cheap relative to what we're doing right now with LB962 which is strictly regulation. We're shutting off economic development in this state because we have sticker shock and we're afraid to look at projects that cost money. And I will provide further written testimony in the near future, but I just wanted to make some of those points and draw some of that together. [LR128]

SENATOR LANGEMEIER: Appreciate that. Questions? Seeing none, they're going to let you off the hook easy. [LR128]

JASPER FANNING: I guess so. Thank you. [LR128]

SENATOR LANGEMEIER: No questions. Thank you very much for your testimony. Other testimony for LR128? Looks like we're done. I am not going to close. And we'll move promptly into LR181. And I want to thank everybody that testified on LR128. Move to LR181 and Senator McCoy will open on it. [LR128]

SENATOR McCOY: (Exhibits 4-9) Thank you, Chairman Langemeier and members of the committee and everyone here today. I'm Beau McCoy, B-e-a-u M-c-C-o-y, and I represent the 39th District in the Legislature. I'm going to expedite my opening remarks here a little bit. But I'm here to introduce LR181, which is the interim study to examine the feasibility and benefits of restructuring the natural resources districts to potentially encompass the entirety of a river basin or a specific area of the state. This study also seeks to analyze and explore the processes and ramifications of realigning, and perhaps reducing, the number of natural resources districts. For five generations, my family has ranched along the banks of a tributary of the Republican River, the Arikaree River west of Haigler, Nebraska. Being raised there and often wondered if my great-grandparents, who were homesteaded, could ever have dreamed how far the ranching and farming industry would come in 110 years. But then I've often also been reminded that some things never change. Water, which we've talked about already a

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good portion of the morning, which was the lifeblood not only to my great-grandparents but every settler that homesteaded this great state is every bit as important to agriculture economy today or perhaps more so. Since 1972, natural resources districts have protected and managed water as the most precious natural resource to our state. During a discussion in 1969 on LB1357 that created the natural resources districts, Warren Fairchild who was the executive secretary of the Nebraska Soil and Water Conservation Commission stated and I quote, Now what is the objective of LB1357? Well, the objective of any natural resource bill should be two-fold. It should be for efficient, effective government and it should be to accelerate the natural resource programs, end quote. This is fundamentally why I introduced LR181 and what, in part, brings us here today: to evaluate the efficiency and effectiveness of our natural resources districts in meeting the challenges of today--which, again, we've talked a lot about this morning--in regards to the stewardship of our natural resources. Without question one of the most public challenges facing our natural resources district system revolves around the Republican River compact with the state of Kansas and the ongoing litigation between our two states. It is difficult to properly understand the strain this water management situation has caused for the stakeholders and communities in this river basin. Compliance with this compact is the responsibility of the NRDs involved, but ultimately rests at the feet of the Legislature and the state of Nebraska according to the arbitrator's ruling earlier this year. This issue, however, goes beyond any single river basin. The management of our water resources effects truly every Nebraskan from Scottsbluff to Omaha. We cannot afford to leave any stone unturned, in my view, or any option unexplored as we endeavor to preserve and maintain our state's agriculture and overall economy. This interim study seeks to develop and examine one of those options. Changes have been made and will continue to be made in the march towards long-term compliance with our water compact responsibilities. We must be visionary in our thinking and willing to look at long-range solutions to this very complex and multifaceted situation. I have every confidence that the same spirit of ingenuity and creativity that inspired all of our homesteading ancestors to build the state we are so proud of is still with us today and will sustain us through this challenging time. And I look

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forward to discussion which, again, we've started this morning and continue this morning from earlier conversations and the ideas and thoughts that I hope it will foster. I really truly believe we can find the right solutions to the problems before us if we are willing to work together cooperatively. Thank you and I'd certainly take any questions if there are any. [LR181]

SENATOR LANGEMEIER: Thank you, Senator McCoy. Are there any questions for Senator McCoy to start? You always get off easy. Just for an idea, how many are going to testify towards this one? Can I just see a show of hands? (Laugh) Okay. We're going to have to roll right along. Okay. [LR181]

SENATOR FISCHER: Follow the lights. [LR181]

SENATOR LANGEMEIER: Yeah. We're going to have to go with the lights and maybe we won't ask too many questions, who knows. Welcome. We want to hear from you all, so. [LR181]

LARRY MOORE: (Exhibits 10, 11) Good day, senators. Having sat on your side of the table at many hearing, I admire your ability to sit in those chairs that long. (Laughter) They're really comfortable. My name is Larry Moore, L-a-r-r-y M-o-o-r-e. I'm here today on behalf of the Big Blue NRD board of directors of which I am a member. I'm testifying today in support of the current NRD structure and the current 12 authorities that the NRDs are empowered to use. I've been involved with NRDs closely since 1974. And in '72 and '73, I worked for Raymond Burke, one of the fathers of the NRD movement, and so I knew he was in Lincoln a lot doing something with Maurice Kremer and Harold Sieck but I wasn't sure what, but I found out shortly after. We own and operate a family farm, an irrigation, and if I don't screw it up too bad, the sixth generation is waiting in the wings there. Over the years...I'm going to give you a little background on myself and the things I've had a chance to do. Over the last 35 years, I've watched the districts grow and I learned a few things along the way. As I said, I've been on the board since 1975. I

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had the opportunity to serve as water committee chairman in the late seventies when we developed our first groundwater management area for quantity, and that was adopted in 1979 and still in effect. I was also water committee chairman during the late nineties when we developed a water management area for water quality in our district, and that is a phased-in thing and we're now into the third phase in some areas of our state...in our district. I served as board chairman several years and many other offices. I had the opportunity to serve two different times in the Natural Resources Commission. The first time was in 1982-1986. And during that time, Senator Exon and Governor Kerrey got the idea that the Natural Resources Commission should hold hearings to determine the feasibility of declaring the Niobrara a wild, scenic river. And I was lucky enough to get to chair those meetings up and down the river. I've never been afraid of anything since then. Nothing has ever scared me after that. (Inaudible) toenails, (inaudible) my nose a couple of times. And if you ever met Tony (phonetic), you remember Tony (phonetic). I've also had a chance to serve on the Butler County Planning Commission. I'm a past-board members of the Natural Resources Associates Board. I've chaired the Natural Association Resources Districts. I had a chance to be a state delegate to the National Association of Conservation Districts to them. I had a chance to testify in front of Adrian Smith (inaudible) office. So I've had a chance over the years to grow along with the districts and to watch the movement develop in the time that Maurice Kremer and folks like he got it started. And I was lucky enough to be able to talk to Senator Lamb on a regular basis for guidance through the years when I was down there with the commission. The handouts that I have passed out to you today, you already have the...the white letter is a copy of a letter that our manager John Turnbull sent to Senator McCoy earlier outlining our particular district, what we do in our district, and priorities and getting into the nitty-gritties. So I'm not going to waste any time on that. The other handout is a copy of our latest newsletter, the "BLUEPRINT." It's a pretty good summary of in our district of who we are and what we do, but a lot of that history of that would apply to any district in the state. The districts share a common heritage. With that being said, I want to draw a few observations and I'll take questions. I've had the opportunity to watch the districts grow and mature over the years. We all

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started out pretty green. And we all share the same 12 authorities across the state, but because of our unique characteristic across the state, we've prioritized those 12 authorities in different rankings. In our district, groundwater quantity and then quality have really been our primary that we worked with. When I first came on, we were very concerned about quantity. We're still concerned about quantity, but since 1960 in our basin--and we're pretty fortunate about this--we've doubled in our irrigation well since 1960. Our static water level has dropped six-tenths of a foot. We enjoy a very healthy recharge and we've been pretty active in (inaudible) that we've been fairly successful. In the nineties, we begin to see the water quality, the nitrate levels are slowly climbing, became concerned about that, and we started our water quality management areas. And I already think in the long haul water quality is going to be a lot bigger issue (inaudible) than quantity is. Quantity will always be there but the quality is going to be what drives the wagon. I think the strength of the districts is like in our area we're able to work on what we think is our strongest suit and our biggest problem, and the other districts have different priorities because of their characteristics. But also on big area problems, we work in a regional basis. You can see what the Republican River Basin districts are doing and you know what the Platte River Basins are doing. In our area, the Lower Blue and the Little Blue NRD have teamed up with us to do a hard logic study of our whole aquifer for the whole basin and we've about got it done, and that's a thing that was really needed. All the districts I know work with landowners to do conservation and I know they'll work with the urban people too. In our area, we have a lot of small communities that don't have the assets to hire planning people to help them plan long term. They just don't know where to go, they haven't got somebody to hire them when they get there, so we help them try to find the money to do planning. One of the things I'm really proud of is...I'll get faster here in a minute, but if it wasn't for that, these little districts couldn't do anything. The other thing is we have our written memorandum of understanding with the NRCS and we also work with the Fish and Game Commission. Through those understandings we've provide clerical help, we help administer equip, wildlife habitat programs, wetland improvement programs, CRP programs. So we're all kind of tied together not with just what we do on our own district, what we do across

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statewide, and I think every district works similar to that deal. With that, I'd answer any questions you'd have. I watched them grow for a long time and I guess we've kind of grown old together. [LR181]

SENATOR LANGEMEIER: Sure. Are there any questions? I do have one. Is your board...as we've heard so much today about funding and funding is a big issue, and an occupation tax seems to be a choice in some of the NRDs, is your board prepared to vote to support that to continue activities? [LR181]

LARRY MOORE: I think that we're going to have testimony probably tomorrow on the LR128, and I really don't want to get my thoughts on LR128 and LR181 mixed together, Senator. I've got some pretty strong thoughts on LR128, but I don't want to waste my time on...your time today on that. [LR181]

SENATOR LANGEMEIER: Sure, sure. Okay. Are there any other questions? Seeing none, thank you very much for your testimony. [LR181]

LARRY MOORE: Thank you. [LR181]

SENATOR LANGEMEIER: Further testimony on LR181. Welcome. [LR181]

DEAN JOCHEM: Hello, there. Thank you, Senator. My name is Dean Jochem. I am a director on the Middle Niobrara NRD and also represent Middle Niobrara NRD on the NARD board. I want to take slightly a different position here. I'm not handing anything out. You're going to have to depend on what I say, I guess. We have been telling all the good things we do, and we do a lot of good things. [LR181]

SENATOR LANGEMEIER: I got to stop you. You didn't spell it. I'm told I need you to spell your name. [LR181]

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DEAN JOCHEM: Oh, okay. I can't spell. (Laughter) [LR181]

SENATOR LANGEMEIER: Then you can't testify. [LR181]

DEAN JOCHEM: Okay. Dean, D-e-a-n, Jochem, not a y, J-o-c-h-e-m. Sorry about that. [LR181]

SENATOR LANGEMEIER: Go ahead. Thanks. [LR181]

DEAN JOCHEM: I want to talk more about NRD structure, the reasons, for instance, that Senator McCoy sent out a letter to all NRD managers. And so, Senator, I've pulled some things out there that I want to, I guess, give my opinion on. And so from time to time I'll be pulling that out. One of the things is the uniqueness of each NRD. It is dependent upon people having knowledge. The further you spread out NRDs or anything else, the less you have specific knowledge of what's going on there. I'll use myself as an example, and I'm sure there are many directors that have better credentials maybe than I do. But I was born and raised in this NRD. I taught school at Ainsworth and Valentine for 38 years. I am a rancher and irrigated farmer. And I'm 71 years young. So I feel that I am fairly well qualified to understand, especially as an ag teacher can understand, natural resources. First thing that crossed my mind, if it isn't broke, why fix it? I don't think we're broke. How this happened as I understand, Senator McCoy, from your letter is that the Legislature approved Papio's bill which upset some of your fellow senators. But on the other hand, if it upset that many senators, why did that thing ever pass? So it goes beyond Omaha. What's the effect on the other 22 NRDs? We're still in business. We are not using that locally, we can't because it was for Papio only. We understand the important position we, as NRDs hold, and we have done a good job, I think. Why the questions? Can a better job be done from afar? And this is what we're talking about when we start talking about consolidation. The more you consolidate, the further away you get from the problem. The...we're responsible for and do face the locals who live and work here. The further away you move us...you know,

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we're going to have an NRD board meeting this afternoon. If we do something wrong by this evening I'm sure we'll hear about it, not if we're down further east or west or whatever. The further away you get on...another thing, you know, if you consolidate, you're going to make me an expert because I'll be far enough away that I'm an expert. Right now, I'm just a board member. I'd like to make a comparison which I think fits quite well with what's going on here. When I retired from ag, I became a zoning administrator. I've been one for ten years. I think the structure for zoning illustrates what we've got here. There were state legislative laws passed that we function under, just like NRDs do. But now we are able to, county by county, develop our own zoning regulations within that structure. And they fall under the county commissioners. Now, what would it be like if we put about five counties together for zoning? Make it a lot easier on the zoning board because those people have a little harder time getting at them. And so, again, I think that this is an example why you do not want to restructure what we have got that's working well. Also, Senator McCoy, you mentioned in that letter that you were concerned with the lack of concern for the little guy. At the structure presently in place, the little guy has as much of a chance as the big guy, at least in our NRD and I'm sure most. As you consolidate, you would probably be right: The big guy would win. The further you get away from home, the less you have to work with those people that don't carry the political clout. Consolidation I feel is very detrimental to at least two-thirds of the land mass in the state of Nebraska. As an example, let's take a look at what happened to our rural schools. That was a consolidation issue, wasn't it? We lost them. And there are attempts to consolidate county government, you know, as a money-saving thing. So are we really wanting to do this? Senator McCoy, you mentioned feasibility and effectiveness. Feasibility and effectiveness doesn't go hand in hand. Usually as you start cutting out dollars and cents and saying this is going to save us money, you better take a look and see what it does to your effectiveness. I don't think our NRDs are...you can slash them anyway you want, but you're going to find out it's going to cost you more money for travel. The only thing you might gain...and I hope the managers in the room don't throw apples at me but so you get rid of a manager or two, you know. They're the ones that, you know, are paid the largest salary. But you think

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you can do away with that manager without replacing him with a assistant manager operating two offices? You're going to have to have...just no way that I can see that you want to go here. We have a beautiful structure; let's keep it. Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you very much for your testimony. [LR181]

DEAN JOCHEM: Thank you. [LR181]

SENATOR LANGEMEIER: Further testimony on LR181. Don't be hesitant, come on up. Do you have a green sheet? Okay. Don't forget your green sheet. [LR181]

JUDY RIDENOUR: (Exhibit 12) Judy Ridenour, J-u-d-y R-i-d-e-n-o-u-r, a lifetime resident of Cherry County, Upper Loup NRD board since 1990. I would like to provide testimony in opposition of LR181. The Sandhills region is approximately 19,300 square miles of sand dunes stretching 265 miles across Nebraska and into South Dakota. It is the largest sand dune area in the Western Hemisphere, and is one of the largest grass-stabilized dune regions in the world. We also reside on top of a large groundwater reservoir. The presence of so much groundwater is so close to the surface that it provides a number of aquatic habitats such as lakes, marshes, subirrigated meadows, and constantly flowing streams. The Upper Loup NRD is the third largest NRD within the state. It's comprised of 6,690 square miles, includes all of five counties, and portions of three additional counties. The distance from east to west is 120 miles, from north to south is 78 miles, and the majority of the 4,275,000 acres lies within the Sandhills. Our district is very large in size, sparsely populated, and a considerable distance from a city with a population over 3,000. I feel this is one of the reasons why all of our local entities need to, and do, work closely and well with each other. We have interlocal agreements not only with our local NRCS office but with our local villages as well. If the district were to combine, that would mean that the largest district, the Lower Loup, and the third largest district, the Upper Loup, would be one. I think the mere size of what would be

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one district would be ridiculously hard to manage. Currently all the districts are very effective in the statutory responsibilities; each have been very proactive in their groundwater management practices. I believe the individuals that would suffer the most with a merger would be our constituents. There are several differences between the Upper Loup and the Lower Loup with the main one is land use. Of our 4-plus million acres: 38,975 acres are in lakes and rivers; 4,182,025 are in grassland; and the remaining 54,000--1 percent--is in irrigated cropland. the Lower Loup irrigates over 1 million acres. As you can see from those numbers, our primary conservation needs differ. We deal with range and grazing practices unlike the Lower Loup. We, therefore, have services that are unique to the Upper Loup, one being the control of leafy spurge, which is a perennial weed that reduces grassland, rangeland cattle carrying capacity 50 to 75 percent. The NRD districts have a proven track record that the current system works. And why, I ask, do you want to change a system that other states want to recreate? Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions before you run off?
Senator Fischer. [LR181]

JUDY RIDENOUR: Deb. [LR181]

SENATOR FISCHER: (Laugh) Thank you, Mr. Chairman. Judy, nice of you to be here today. As you know, your NRD is one of seven that it's my pleasure to represent in the Legislature. You alluded to the fact that, you know, maybe we were headed down the road to put the Upper Loup in with the Lower Loup. How about going the other way? As you know, part of the Upper Loup was declared fully appropriated in the Niobrara Basin decision. What makes the Upper Loup Basin, the Upper Loup NRD unique from the Niobrara Basin? [LR181]

JUDY RIDENOUR: I think one of our most unique features is we have hardly any irrigation in our area. Our water use is so typically different. [LR181]

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SENATOR FISCHER: Are soil types similar? [LR181]

JUDY RIDENOUR: No. [LR181]

SENATOR FISCHER: How are your rivers and streams fed? [LR181]

JUDY RIDENOUR: As far as I know, they are maintaining because the Loups and the Dismal are the most standard-flowing rivers in the world. They do not change because they're spring fed. [LR181]

SENATOR FISCHER: Okay. Thank you very much. [LR181]

SENATOR LANGEMEIER: Any other questions? Seeing...okay. (Laugh) Thank you. Welcome. [LR181]

DENNIS SCHUETH: (Exhibits 13, 14) It's still morning so I'm going to say, good morning. And thank you, Senator Langemeier, Chairman, other committee members. I'm Dennis Schueth, general manager of the Upper Elkhorn NRD, D-e-n-n-i-s S-c-h-u-e-t-h. The Upper Elkhorn NRD would like to go on record of opposing LR181 with the understanding that we will cooperate in any way to evaluate the effectiveness and efficiencies of the natural resources district system. Senators, this resolution states that the study is to focus on the advantage of having a natural resources district encompass the entirety of a watershed, water basin, river, or other specific area of the state. The Upper and Lower Elkhorn NRD may be two districts that could be considered to merge. However, this new district would be approximately 164 miles from west to east and a maximum of 70 miles from south to north. This concept is a reasonable idea to consider, however, due to the passage of LB962 in 2004, watershed basins will be or have been redefined when a basin is determined to be preliminary or fully appropriated. Due to the Nebraska Department of Natural Resources final fully appropriated

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designation of the Lower Niobrara Basin in 2008, 8 percent of the Upper Elkhorn NRD was included. I am including a map outlining the Niobrara River Basin fully appropriated area and the area affected in the Upper Elkhorn NRD. That is the map that I just handed out to you that looks like this on this side; there's two sides to it. This map also includes the preliminary designation of the Lower Platte River Basin in '08 and the 10/50 area overlap in the Lower Niobrara River Basin designation. This illustration shows that merging NRD boundaries based on just watersheds is difficult and the watershed boundaries will be changed due to LB962 which is based on 10/50 line boundary. The preliminary Lower Platte River Basin designation was determined to be not fully appropriated by DNR in April of 2009, but the effected areas included different watersheds such as the Niobrara and Loup Basins. I am also including a map that shows the boundary of the reversed Lower Platte River Basin designation and I ask the question: Is this the purpose statement's intent to make this one NRD? And I just want you to flip the chart over, and the area that was labeled under the Lower Platte River Basin was the purple area. So if you want to look at a watershed that could be conceived as one NRD because we're managing that whole basin for one water use for that whole area, so it becomes very complex. I want to thank Senator Langemeier and Senator Carlson for making themselves available at the NARD fall conference and discussing the interim studies. Senator Langemeier stated that this resolution is an opportunity for the NRDs to highlight the NRD system. The Upper Elkhorn NRD has been proactive in the responsibilities to evaluate the effectiveness and efficiencies of their actions. Through the authorities granted by the Nebraska Ground Water Management and Protection Act, the Upper Elkhorn NRD labeled the entire district as a water quality management area for nitrate-nitrogen. This designation occurred in 1997, and required 1,600 operators applying more than 50 pounds of nitrogen to become licensed through the NRD certification class as well as sample their irrigation wells for nitrate-nitrogen every four years as part of their obligation. This certification class has given the NRD an opportunity to discuss best management practices relating to irrigation and nitrogen management. In 2003, two areas encompassing approximately 69,000 acres within the district were labeled as Phase II areas. This requires

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cooperators to annually submit additional data and irrigation water nitrate results to our NRD. The Upper Elkhorn NRD will be expanding the Phase II designation hopefully in the next year. This area will include approximately 430,000 additional acres encompassing 26 percent of the district. The Upper Elkhorn NRD is very frugal in managing taxpayer dollars while achieving the responsibility of the NRDs. The Upper Elkhorn NRD has looked at other funding sources to reduce reliance on property taxes by applying for and receiving grants from state or federal funding sources. The Upper Elkhorn NRD applied and received funding from the Nebraska Department of Quality through their administration of 319 funds provided by the federal government through the Clean Water Act. Currently, we receive funds from the Environmental Trust which is made available to cooperators to install flowmeters, replace or repair septic systems or contaminated domestic water supplies. We also receive 319 funding, and those dollars are also available to cooperators for best management practices relating to irrigation and nutrient management in the East Branch Verdigris Creek Watershed, which is a Class A cold water stream. These types of grants have been awarded in the past and utilized in other areas of the district. The Upper Elkhorn NRD actively continues to work with, develop partnerships with the following organizations: Nebraska Game and Parks Commission, United States Fish and Wildlife Service, UNL County Extension, UNL Conservation Survey Division, UNL Water Center, United States Geological Service, High Plains Climatic Center, the USDA Natural Resources Conservation Service, and other NRDs to better manage and protect natural resources locally and collectively for the state of Nebraska. A lot of the data that is collected through these partnerships are currently being utilized at the NRD and state level in determining the management of hydrologically connected water between ground and surface water. The Upper Elkhorn NRD partnered with eight other NRDs and is cooperating with the state and federal agencies to develop models, such as the Elkhorn-Loup Model, to determine this type of ground and surface water relationship. This model is at its infancy and additional data collection is needed and the studies are moving forward to better manage water for existing uses and future needs. Individually an NRD could not afford to do such a study, but collectively it is possible and we are hopeful the model will become more reliable as

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data is collected. Senators, each district is governed by an elected board of directors who have a concern for protecting natural resources, protecting lives, and protecting the future of those resources. However, if mergers occur, we need to remember that the physical characteristics of these environments change dramatically in soil types, precipitation regimes, and population dynamics from district to district. Managing those resources across a bigger district becomes very difficult and reduces the equality of local representation. Thank you for the opportunity to testify on LR181. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Fischer. [LR181]

SENATOR FISCHER: Thank you, Chairman Langemeier. Hi, Dennis. [LR181]

DENNIS SCHUETH: Hi. [LR181]

SENATOR FISCHER: How are you doing? [LR181]

DENNIS SCHUETH: Good. [LR181]

SENATOR FISCHER: Another one of my NRDs. I'm going to follow up on what I asked Judy, the previous testifier. Part of your district is in the fully appropriated status for the Niobrara Basin. As you pointed out in your map, which really I think is striking, if we go by not just basins but drainage areas, what that district may look like, what makes the Upper Elkhorn unique? Why do you need a district called the Upper Elkhorn with those boundaries? You've already been kind of merged into a Niobrara one. You're going to go to the Lower Platte South maybe by drainage area, so why are you unique? [LR181]

DENNIS SCHUETH: If you look at the map, (1) the Elkhorn River starts...the headwaters of the Elkhorn River starts in our district right west of Bassett. It's primarily groundwater fed and it's not from the Niobrara River system per se. And so we're

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starting...it's that merge of right there where there's a difference between the Niobrara and the Elkhorn River system into the Platte River System. And then the variances across our district, like you asked Judy, when you start looking at the soils in the western part of our district, Valentine sand properly noted, Valentine, Nebraska, but and then you go to the eastern side, we have a lot of clays and heavier soils there. So right there on soil characteristics is very diverse. In the northern part of our Antelope...in our district of Antelope County, the Ogallala aquifer is no longer there. The top two townships are completely different; it's getting its water supply from a different aquifer system. So I think we need to stand alone because of those differences right there alone. We have saturated thickness of our groundwater table of about 600 feet in Rock County to the eastern side in that northern portion of our district of about 100 to 200 feet. So there's a lot of variances in just static water levels, and so you can't really necessarily manage one side of our district the same as we're going to have to on the eastern border. So I think that's why we need to stand alone, and for local representation too. [LR181]

SENATOR FISCHER: Thank you. [LR181]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. Go ahead. We're ready when you are. [LR181]

DUANE FILSINGER: (Exhibits 15, 16) Thank you. Good morning, Senator Langemeier and fellow senators on the Natural Resources Committee and guests. My name is Duane, D-u-a-n-e, Filsinger, F-i-l-s-i-n-g-e-r. I'm currently the general manager of the Lower Niobrara Natural Resources District, and I shall testify today in opposition to any reductions or eliminations of the NRDs in the state of Nebraska. I've got two handouts which are coming your way and, first of all, the first one is simply a small bulletin. I see you all have the larger booklet on the NRDs. But I just wanted to point out, the Lower Niobrara is top here in the white/brown area. And this will help you if you're identifying the different NRDs that testified today. And also there's a sheet on "Know Your NRDs,"

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and this is what we do and everything for the past year. And then following through with that, the NRDs were created by law in 1972 and just like our Unicameral Legislature, we are very unique to the state of Nebraska. We're a local government with our directors elected by local voters. Our mission is to protect the future of our natural resources through responsible management. Water issues are becoming very, very important to the economy of our state. Management of these resources is becoming more critical each year. In December of 2008, the Lower Platte area was declared fully appropriated. The Lower Niobrara and eight other NRDs played a critical role in reviewing the modeling data with DNR. We were able to conclude through the use of sound science and review of the technical data that the decision to fully appropriate the area should be reversed. We managed the West Knox Rural Water System which provides water to the city of Verdigre and surrounding areas. We will be expanding the system by drilling two additional wells. The cities of Creighton, Center, and Niobrara, and 100 rural customers in the Knox County area have had extremely high nitrate issues and mineral issues. With the addition of these two wells, we will be able to supply water to...we'll be able to supply them with good quality water. Teaching youth how to be excellent stewards of the land is a very important goal also of the Lower Niobrara. We sponsor youth events each year. They are the natural resources festival for fifth graders, three eighth-grade conservation days, county government days for juniors, area land and range judging contest for 9th through 12th graders, and the wonderful world of water for high school students. It is important to begin this process of hands-on education at our local level. Currently, the Lower Niobrara is administrating several water quality programs. We monitor the water levels in 76 testing wells, we do chemigation inspections on 600 irrigation wells, we issue 1,100 chemigation permits, we offer free nitrate and bacteria testing along with ultrasonic flowmeter checks, and we test 475 monitoring wells for nitrates. The Lower Niobrara has planted over 1 million trees during the past 20 years to help with livestock and homestead protection, prevention of soil erosion, as living snow fences, and creating wildlife habitat. We also have interlocal agreements with many of our partners as we combine our efforts on managing Nebraska's resources. These partners include NRCS and USGS on the federal level, DNR and Nebraska Game and

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Parks on the state level. The Lower Niobrara NRD takes pride in being the local government entity that efficiently manages our resources for the well-being of the people. We view the interim study provided for in the legislative study LR181 as an opportunity to show our elected officials and the general public how effective the Lower Niobrara NRD has been and will continue to be in protecting the natural resources of Nebraska. I thank you very much for your time. Are there any questions? [LR181]

SENATOR LANGEMEIER: Are there any questions? Senator Carlson. [LR181]

SENATOR CARLSON: Senator Langemeier. Dennis, I want to ask you before Senator Hansen does. With all this tree planting, how many Russian olives did you plant within two miles of a stream? (Laughter) [LR181]

DUANE FILSINGER: We do plant a few Russian olives, although I will say that they're kind of on our list as invasive species. We don't seem to have quite the evasiveness in them that they do west of us. So we still plant a few, but it's not my favorite tree to plant, I'll make an honest statement. [LR181]

SENATOR CARLSON: Thank you. [LR181]

SENATOR LANGEMEIER: I'm going to ask you one question just because I think this is a very interesting phenomena. In the Lower Niobrara as we look at the map that the previous introducer gave us with the preliminary designation of the Lower Platte and Loups, it's all up the 10/50 line, and so as you can see there's the little fingers that go out. But in your district, you have the Niobrara River runs through your district and you have a white nonfully appropriated finger along the river, yet how...normally the fully appropriated starts at the river and works out everywhere else in this state. [LR181]

SENATOR FISCHER: True. [LR181]

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SENATOR LANGEMEIER: But in your district it seems like it's working the other way. I've always thought that was kind of interesting. [LR181]

DUANE FILSINGER: Well, I have a real simple answer for that, sir. We have no water in that area. (Laughter) There's no wells. [LR181]

SENATOR LANGEMEIER: That's not the first time I've gotten that answer, so. I thought I'd ask again. [LR181]

DUANE FILSINGER: No, but that, again, was unique to me when we received the fully appropriated designation, and so obviously doing some research. And we sit in a situation where the Niobrara River...and we're probably the only NRD very unique in this where the Niobrara River over periods of thousands of years has cut a path through a district, and the Niobrara River is actually on the average about 150 to 170 feet below the land surface because it's cut in and, consequently, most of our wells are 50 to 70 feet deep. So we have...you know, being new and different and whatever I had the question of, how can we be fully appropriated or how are we affecting the surface water if our groundwater is 100 feet higher than the surface water? But it comes down to the realization that that is true. And close to the river we have kind of a barrier or block where there's no water and there's no wells. We run a survey and there's only five irrigation wells or five wells within a mile of the Niobrara River that runs through our district. Our water tends to be 5 to 20 miles away from it, but where it comes up that we have effect on the surface water is that fact that as we irrigate, it does have some effect on the streams that flow through that area to the Niobrara River. And therefore if the DNR felt that the fully appropriated label should go on due to the fact that we had influence on some of the streams that flowed into the Niobrara River. [LR181]

SENATOR LANGEMEIER: So clarification, when you say you have no water, you're talking about groundwater... [LR181]

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DUANE FILSINGER: Have no groundwater, correct. Yes. [LR181]

SENATOR LANGEMEIER: ...not the water within the stream? There's water within the stream. Okay. Are there any other questions? Seeing none, thank you very much. [LR181]

DUANE FILSINGER: Thank you very much. [LR181]

SENATOR LANGEMEIER: You did a great job. It's always been something fascinating to me, that. Mr. Pollock, how are you? [LR181]

ANDY POLLOCK: I'm fine, Senator. How are you? [LR181]

SENATOR LANGEMEIER: Doing good. Ready when you are. [LR181]

ANDY POLLOCK: Thank you, Chairman Langemeier and other senators, Senator Fischer in particular. It's good to be up in Valentine. You know how much I appreciate and love this area. My name is Andy Pollock and the spelling is A-n-d-y P-o-l-l-o-c-k. I am here on behalf of a group called the Papillion Valley Preservation Association, as I've been before this committee before on their behalf, about 500 members, mainly rural landowners in Washington and rural Douglas County. So we're a little ways away from home, if you will. Principally the concern of this group has been within the borders of the Papillion Missouri River NRD. We are not opposed to the notion of realignment, but I would add that we believe that if there's realignment, it should be realignment of responsibilities instead of necessarily a realignment of borders. We also support the notion of local control no matter how realignment may look. I want to just briefly touch on a couple suggestions for improvements that we might offer to this committee for dialogue purposes and for discussion purposes going forward. First, we believe that realignment might be helpful in coordinating the management of the natural resources of the state of Nebraska. As you all know, coordination is important. But, as I'll say

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again, we believe that it's also essential to maintain local control. We, obviously, need as a state to be tuned into local issues and protect resources which happen to be mainly local in nature. We believe coordination, though, is necessary for consistency, for consistent and correct application of the law whether it's eminent domain or whether it's water law or other natural resources law. We also believe that consistency is needed because decisions and projects, as we've heard a lot about today, effect entire basins and, in fact, Senator Carlson has pointed out several times here, effect the entire state. It's also important, coordination is, because decisions made now, projects undertaken now, as we've seen in the Papio-Missouri NRD, effect the future of the people in those districts. We also believe that coordination with cities, with counties, with public power districts, with other governmental agencies is just paramount to making sure that our natural resources are managed wisely. One idea that we have in terms of achieving that consistency would be to create perhaps through some state entity--Department of Natural Resources, Department of Agriculture, whatever may be the most appropriate--a clearinghouse for information for resources for the natural resources districts. We believe, as I've heard said... [LR181]

SENATOR LANGEMEIER: I've got to stop you. Slide the mike away from you a little bit. [LR181]

ANDY POLLOCK: Am I too close? [LR181]

SENATOR LANGEMEIER: You're screwing up our recording system. [LR181]

ANDY POLLOCK: Is that the pop? I'm sorry, Barb. [LR181]

SENATOR LANGEMEIER: Okay go ahead. (Laugh) [LR181]

ANDY POLLOCK: Thank you. We believe that a clearinghouse for information might be helpful to making sure that progressive, proactive, forward-looking measures are taken

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to manage our natural resources. We also believe that that sort of central clearinghouse might be helpful for providing the NRD's financial expertise for having uniform bidding standards and standards of operation for best practices with respect to managing our resources, even perhaps to engage in bulk purchasing of large equipment. Just one idea. I would simply close by, it's our opinion that we really need to get back to our roots with respect to the natural resources districts in particular, and protect the natural resources for agricultural purposes. That should be the paramount concern. Like I said at the beginning, we would welcome the opportunity to take part in a continued discussion with this committee and with the other people who have appeared before you today. And that concludes my remarks. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Pollock? Senator Fischer. [LR181]

SENATOR FISCHER: Thank you, Chairman Langemeier. Thank you, Mr. Pollock, for being here. I'm happy you love Valentine so much and the Sandhills. You began by saying that you welcome the study and you view it as an opportunity to look at the realignment of responsibilities for NRDs. Give me specific examples of what you're talking about there? What responsibilities? What do you want to change? [LR181]

ANDY POLLOCK: Well, kind of like I mentioned, Senator Fischer, with respect to the...not consolidation, but offering of a central clearinghouse of resources whether it's legal expertise, financial expertise. [LR181]

SENATOR FISCHER: Well, but that's not responsibilities. They can do that already. They can do interlocal agreements as any political subdivision can do. You said realignment of responsibilities. What responsibilities do the NRDs have now that you would like to realign? [LR181]

ANDY POLLOCK: Perhaps realignment...I'm picking up language that was in the

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legislative resolution itself, perhaps there's better language that might be applied to that. What we're suggesting is more of a consolidation not of the local control that's exercised, but rather of potential resources for those NRDs so that there would be some potential state agency that would have legal resources, that would have financial resources, that would have resources, for example, like I mentioned in bidding processes. I think that's something that is, as I understand it, variable. It's something that changes or you see differences in the way that other NRDs handle it from district to district. [LR181]

SENATOR FISCHER: Maybe I'm not following you here or did I just hear you suggest a new state agency? [LR181]

ANDY POLLOCK: No. [LR181]

SENATOR FISCHER: Or some current state agency, as everybody up here goes, what? No, but or some current state agency that would take over legal concerns that NRDs have? Do you want to move some of that to the state level? [LR181]

ANDY POLLOCK: I don't know that it's necessarily moving and we are certainly not on record advocating a new state agency. [LR181]

SENATOR FISCHER: Bless you. [LR181]

ANDY POLLOCK: Thank you. (Laugh) I look to Department of Natural Resources, Department of Agriculture as possible agencies that have legal staff that may offer resources and support to the legal counsel that serve the NRDs today, and it would be supplementary to that for the sake, like I said before, of providing some consistency across the board. [LR181]

SENATOR FISCHER: Have you found examples where there's been inconsistencies

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within the 23? [LR181]

ANDY POLLOCK: I can't point you to specific examples. I could certainly try to come up with some. I think there's some issues and I don't want to rehash prior fights, but there's been some issues where our group has had concerns with the Papio-Missouri River NRD and we see other NRDs doing things differently. And so in that regard it would be...there would be some differences. [LR181]

SENATOR FISCHER: You also made the comment that NRDs need to get back to their original purpose which was to protect ag interests. Is that stated in statute that that's their priority of charge that they have? [LR181]

ANDY POLLOCK: I don't believe it is stated. I think they have a number of purposes for which they're created. [LR181]

SENATOR FISCHER: I think they have 8, 10 that are in statute...15, oh, 13 that are stated in statute. I didn't remember that one was to protect ag interest. And while I may be empathetic to that, I'm wondering where you pulled that one from. [LR181]

ANDY POLLOCK: I'm speaking in terms of... [LR181]

SENATOR FISCHER: This is what happens when lobbyists show up at these things. [LR181]

ANDY POLLOCK: (Laugh) I'm speaking in particular of things like irrigation, flood control, issues that effect agriculture, frankly, issues that effect urban areas, too, as we've seen in the Papio NRD. It's to perhaps move a little bit away from the notion of trails and recreation and focus more on the use of our natural resources. That's the gist of my comment there. [LR181]

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SENATOR FISCHER: Okay. Thank you very much. [LR181]

ANDY POLLOCK: You're welcome. [LR181]

SENATOR LANGEMEIER: Senator Carlson. [LR181]

SENATOR CARLSON: Senator Langemeier. Andy, in listening and I jotted a couple of notes down, as you started to speak, I wrote a little note that said you're semi-supporting realignment. And then I put a note that you...local control is very important. And so I kind of got the idea maybe most of us here think in terms of realignment it means consolidating, but maybe you mean adding in order to have better local control. [LR181]

ANDY POLLOCK: I think what I mean, and this goes to the same issue that Senator Fischer raised, we wouldn't support consolidation of the NRDs themselves. We would support creation of a clearinghouse central repository for information for resources for the NRDs, utilizing existing state agencies like the Department of Natural Resources, Department of Ag, whatever you would deem appropriate, but really look to those agencies which have expertise in this area, as do the NRDs, to help coordinate efforts and make sure efforts are consistent without consolidating any of the NRDs together, without folding them together, without eliminating any of the NRDs, maintaining local control that they provide but also have an agency that coordinates the efforts. And I think we heard a lot of that with respect to Senator Langemeier's legislative resolution. How do we maintain local control yet coordinate that somehow, recognizing these decisions, these projects effect multi-basins, effect the entire state? There just needs to be some coordination. What is the right place to do that? I don't have a magic answer here, but I think that we recognize the need for some coordinated efforts too. [LR181]

SENATOR CARLSON: Okay. Thank you. [LR181]

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SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. [LR181]

ANDY POLLOCK: Thank you very much. [LR181]

SENATOR LANGEMEIER: Our next testifier. Welcome. [LR181]

DAVID KADLECEK: Thank you, senators. I guess I should say it, good afternoon. The morning done passed. I'm David Kadlecek, D-a-v-i-d K-a-d-l-e-c-e-k. I'm a member of the Upper Niobrara White NRD board of directors, been serving on there about six years. I farm and ranch about ten miles north of Hay Springs and I might defer a little bit to Senator Fischer. This isn't quite western Nebraska yet, northern, yeah, but we've got to go a little bit further, got to go another 150 miles. [LR181]

SENATOR FISCHER: (Laughter) You know, they always forget the Panhandle, don't they? [LR181]

DAVID KADLECEK: That's right. You know, we're kind of left out. So anyway, that's where we're from. [LR181]

SENATOR LANGEMEIER: She has pointed that out every time somebody has said that. [LR181]

DAVID KADLECEK: I know. I spent eight years as Sheridan County Commissioner. Like I said, six years currently in the NRD board of directors. A lot of people have talked about a little bit of the history of the NRD and I'm going to very briefly. You know, they were established in 1972 by LB1357, following subsequent legislation that strengthened the NRDs, particularly on groundwater management. The 23 NRDs that were established we basically set on with the watershed guidelines with the overall mission to...Deb said about eight things in the mission statement which is true...it may be more

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than that. But, anyway, basically protecting lives, property, and the future, you know, of the areas. That future involves education of adults, and I think more particularly of our youth, of the conservation and water management and treatment of our natural resources. The NRDs are public entities that have property taxing authority across the state. In 2008, actually lowered the taxes by about 2.1 percent where other taxing entities actually increased an average of 5.5 percent. So I think we've been doing reasonably well on financial management as far as, you know, all the respective entities across the state. There's a lot of functions of the NRDs and I'm going to go through some rather hurriedly because we've heard a lot of them already today. But in our particular area, we have a moratorium on high-capacity water wells. We have allocations in two areas of 16 inches per year or 64 inches over a four-year period. Some of that is probably going to go down when we see what our water tables are doing, and our goal is to try to decrease that declining trend, but it may take some time to do it. I know it doesn't happen overnight. Do a lot of water quality sampling. Manage a chemigation program of testing and educating of irrigators. That's a real important part of education in the chemigation program. We have an active no-till program and we're getting more and more producers wanting to do no-till, which has a bottom line of conserving water. And we do a well head protection program. We're involved in hazard mitigation planning. We have a timber management program in the Pine Ridge, which is only unique primarily to the Upper Niobrara, some here in the Middle Niobrara NRDs. We work with the Nebraska State Foresters, U.S. Forest Service in programs of logging fuels reduction to try to reduce catastrophic forest fires, plus providing the fuel for Chadron State College at Chadron because they use wood fuel--which a lot of people don't realize--to heat and cool the buildings on the Chadron State campus. We do an extensive PR program with newsletters to producers as well as environmental education programs in various schools. We've got to train, teach the younger kids; there's no two ways about it. That program has to continue. In our office in Chadron, we house not only our NRD office, but we also provide office for the Nebraska State Forester, also for a wildlife biologist of Nebraska Game and Parks, and we also have a DEQ employee who is involved in water quality monitoring. We also monitor...you know, have the

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regular SWCP conservation programs of terraces, dams, water lines, you know, all of those types of projects go through our office. Those mean meeting with a lot of people on a day-to-day basis, with farmers, ranchers, local businessmen, news media. Our staff meets with those people all the time. Offices need to be accessible and not 200 hundred miles away. If you look at the Niobrara Basin in all the consolidation, if they have one probation, that office would probably be here in Valentine. We're going to put on about 300 miles today coming down to this hearing. We've got board members currently that live another 70 miles further than that. So you can see that the logistics of people going, plus, for board members is one thing, but accessibility for the private people, businessmen, and producers. It would be a serious burden on our people that participate in the various programs. We left at 5:00 this morning. I hope some time we get home tonight some time. But, anyway, this...people that would have to drive that far to come to a local office, they're not coming. That's pure and simple. It's too far away and so a lot of it's going to be by telephone, but a lot of it needs to be one-on-one, particularly when we're in a situation of regulatory function where we're reading meters--chemigation programs. You need to be able to meet with those people and talk to them on a one-on-one. You know, we lost a good friend here over the last few years; it's called common sense. And I think that we need to look at this LR181 with a common-sense approach. I think the NRD system is not broken--I heard that a little while ago--let's not fix it if it's not broken. So I guess in closing I would say, let's leave the districts as they are, and I don't believe any legislation should come out of the resolution to go forward. Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Thank you. Are there any questions? [LR181]

DAVID KADLECEK: No hard ones, I'm only a board member. (Laughter) [LR181]

SENATOR LANGEMEIER: They're going to let you off the hook. [LR181]

DAVID KADLECEK: Good. Thank you. [LR181]

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SENATOR LANGEMEIER: Thank you very much for your testimony. Further testimony on LR181. Don't be shy. We've got on on-deck chair so...welcome. [LR181]

SHAWN MELOTZ: Hi. Good afternoon and thank you to Senator Langemeier. I was going to thank Senator Fischer for allowing me to see her beautiful part of the country, and thank you to Senator McCoy for bringing this issue to light. I understand that the study is to review the possible alignment and...Shawn Melotz, S-h-a-w-n M-e-l-o-t-z. While I understand the study is directed towards reviewing alignment and possible consolidation of NRDs, I'm opposed to consolidation of NRDs, mostly because of the situation in our area. My family has farmed in the Papio NRD for over four generations. We've had land in the pioneer program that we farm and we're very proud of it. And we work very closely with the NRDs. We put in over 26 miles of terraces. However, recently this NRD, our NRD, because of its metropolitan makeup, has moved away from the agricultural sense and more towards working with nonag, commercial partners, so to speak. I believe Mr. Pollock addressed a realignment of responsibilities. I would give an example under that with the recreational aspects of NRDs. I feel that some of those could be shifted over to Game and Parks rather than having two separate entities administer a recreational project, such as trails as a great example. Also, a lot of the municipalities do trails as well. So I think there could be a lesser government through a realignment of responsibilities. I think local control is very important that, you know, so you know your issues and know what factors are dealt with your area of interest. I'm concerned that some of the non-resource direction, non-natural resource direction of the metropolitan areas to some extent perhaps allows for the continuation of their own government. For example, the Papio has increased its budget over the last three years. In fact, it's over \$64 million this current year of what their budgeted expenditures are, and I'm sure that's quite a bit more than most other NRDs throughout this state. Therefore, I ask this committee to focus the study towards the realignment of responsibilities of NRDs rather than the realignment and consolidation of their boundaries. Thank you. [LR181]

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SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you very much. Come on up. [LR181]

KEN PEITZMEIER: (Exhibit 17) Good afternoon. My name is Ken Peitzmeier, that's K-e-n P-e-i-t-z-m-e-i-e-r. Good afternoon, again, Senator Langemeier and members of the Natural Resources Committee. I live in Norfolk, Nebraska, and am currently a director on the Lower Elkhorn NRD. I am testifying today in opposition to LR181. From time to time, the Nebraska Legislature conducts appropriate reviews of government functions. A recent example is legislative resolution LR181 introduced by State Senator Beau McCoy of Omaha calling for an interim study to review the role of Nebraska's 23 natural resources districts, the NRDs, in managing Nebraska's natural resources. Our Lower Elkhorn Natural Resources District welcomes LR181 and the opportunity to answer questions from the Natural Resources Committee as well as present our record of accomplishments in protecting lives, protecting property, and protecting the future of our natural resources. We strive to be more efficient and serve our constituents as part of our mission as granted by the Legislature in 1972. We will always answer any question or questions the public may request. As part of our mission to protect lives and property, the Lower Elkhorn NRD has developed a number of projects critical to the safety of our residents and their property. These include: flood control projects, water quality programs, soil conservation programs, and developing recreational opportunities including trails to promote the health and well-being of our citizens. The LENRD has constructed eight major flood control structures and is working with several communities on additional flood protection structures. Nebraska NRDs are unique in the nation. Like our Unicameral Legislature, Nebraska is the only state with an NRD structure and many other states are very envious. The Legislature created the NRDs with the express purpose of creating districts where local control and local citizen output and input would be highly valued. The current structure provides that opportunity for local participation and direction for resource management. One of our constituents compared an attempt to eliminate local NRDs to the current attempt by some in Congress to mandate that

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healthcare decisions, that they be made at the national level instead of by individuals and their doctors. I might not take the comparison that far, but Nebraskans value their local government and feel that smaller, local government entities are often more responsive than state and federal ones. Nebraska's NRDs are proud to do our part in finding spending efficiencies. As part of the responsibility of local control, Nebraska NRDs are funded through a small property tax levy which is less than 2 percent of all property taxes. According to reports by the Nebraska Department of Revenue, the NRDs were the only political subdivision in 2008 to reduce property taxes--a decrease of over \$1.1 million from 2007 levels. On average, other government units raised their property tax an average of 5.5 percent. Because water is so important to the economy of our state--whether for agriculture, manufacturing, or for domestic use--the NRD's management of that resource has gained more attention in recent years. The LENRD and other NRDs played a crucial role in reversing a decision by the state of Nebraska to declare the Lower Platte River Basin fully appropriated, which would have halted any new water uses for agriculture or manufacturing in a huge geographic area of the state, including the LENRD. By offering sound science and a review of the technical data, we were able to convince the state that their initial decision should be reversed. We are now working closely with the state to monitor the groundwater situation to make sure that valuable resource is responsibly regulated, while still providing opportunities for reasonable economic growth. Nebraska's natural resources districts play a vital role in the checks and balances of water regulation in our state. We take that responsibility seriously and are diligent in making sure our water resources--and all natural resources--are used wisely and effectively and are protected for future use by the future generations of Nebraskans. We view the interim study provided for in LR181 as an opportunity to show our elected officials and the public how effective NRDs have been and will continue to be in protecting the lives and property of our constituents and the future of our natural resources that are so important to the quality of life we enjoy in Nebraska. Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions for Ken? [LR181]

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SENATOR HANSEN: Could I ask one? [LR181]

SENATOR LANGEMEIER: Senator Hansen. [LR181]

SENATOR HANSEN: Thank you, Chairman. Ken, according to the map--and we've had a lot of maps passed out today--the Lower Elkhorn and the Upper Elkhorn, do you work together with the two NRDs, the Lower with the Upper as a basin? [LR181]

KEN PEITZMEIER: Yes, we do. We're very aware of what each other is trying to accomplish for the betterment of both NRDs and the basin in general. [LR181]

SENATOR HANSEN: When we look at the map in Senator McCoy's idea where you would put these two river basins together, they're not much bigger than some of the NRDs now. Do you...give me a couple of good reasons why you shouldn't be... [LR181]

KEN PEITZMEIER: Well, for one instance, the number of irrigation wells at the Lower Elkhorn is quite large compared to what the Upper Elkhorn has. In fact, to quote some approximate numbers, I believe we have roughly 5,300 irrigation wells in our district, groundwater, versus roughly 800 I believe in the Upper Elkhorn. [LR181]

STAN STAAB: It's a few more than that, but I'm not sure on that number. [LR181]

KEN PEITZMEIER: Approximately. [LR181]

SENATOR HANSEN: Okay. Thank you. [LR181]

KEN PEITZMEIER: So our issues are much the same over the geographic areas. [LR181]

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SENATOR HANSEN: Okay. Thank you. [LR181]

SENATOR LANGEMEIER: Are there any other questions? As we carpooled out, we stopped at Leigh and looked at your new facility that's waiting to be filled at the Leigh Dam. [LR181]

KEN PEITZMEIER: I salute you for that. I...perhaps Stan Staab, our general manager, wishes to touch on that further. But that was a long time in coming and it's going very, very well. Thank you. [LR181]

SENATOR LANGEMEIER: Thank you very much for your testimony. Mr. Staab, welcome. [LR181]

STAN STAAB: (Exhibit 18) Thank you, Chairman. Good day, Senator Langemeier and members of the Natural Resources Committee. My name is Stan Staab, S-t-a-n S-t-a-a-b. I am general manager for the Lower Elkhorn Natural Resources District based in Norfolk. I will be testifying today in a neutral position regarding LR181 while describing some of our programs in detail. I hope that all members of your committee received our NRD packet that was sent several days ago, that you've had sufficient time in your busy schedules to review the letter that was included with that with the bullets, including our annual, long-range plan and several of our brochures highlighting our projects and programs that were sent in the packet, sent to your offices. I appreciate your interest in our NRD and all the NRDs across the state. The packet letter attempted to highlight many current projects and programs and summarize their purpose and status. While I do not intend to repeat any of these bullets today, but rather will expound on the relationships with various federal, state, and local agencies and entities that we have established over the years producing positive results. I will also attempt to explain the critical link between what we call "joint public agency and interlocal agreement" that's been mentioned earlier today, but it does provide a legal bond between federal, state, and local agencies. This link is critical. It is determined by the Interlocal

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Cooperation Act, state statute 13-513, that was passed in 1994 by the Legislature and is by far the most important and underrated legal agreement that all NRDs us to complete projects. Since the NRDs began their operation in 1972, our NRD has a long and successful history of planning and completing many, many programs and projects to improve the lives and the economic well-being of our citizens. The district has worked within the 12 original areas of natural resources management established by the Legislature to address local soil and water conservation problems. The board of directors has determined very early that soil erosion, flood control, and striving to improve our groundwater quality were our top priorities. These general issues established our initial focus. For example, major NRD projects such as flood control structures in the forms of dams and levees originated in direct request--and I stress that--direct request from the cities and county officials and villages as they were hammered for years and years and years of flooding, and not just in our district but across other parts of the state as well. Certainly in our district we have flooding as the number one problem. It is a constant problem and challenge in eastern Nebraska. All eastern NRDs today are addressing complex flood management problems. With our communities, there was some areas, some cases that I mentioned going back to the 1940s, the fifties, and the sixties, long before NRDs became operational. Land rights and funding remain the biggest hurdles to complete a project. Time is another huge factor. It is not uncommon for an NRD project to last eight to ten years before completion or longer. Some projects go way beyond that. It obviously requires a very strong commitment from local NRD boards and staff to see it through. And sometimes turnover in boards and staff that we endure throughout the lives of these projects. The project building process has become very complex in the last 20 years because of increased pressure and scrutiny from federal agencies with powerful environmental attitudes regarding water and a general anti-dam sentiment. A recent example is the length of time our NRD consumed to build...to obtain a 404 construction permit, over two and a half years, from the U.S. Army Corps of Engineers for what is now called the Leigh Dam, now called the Maple Creek Recreational Area. We strive to build positive working relationships with all agencies which in some cases require years to

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accomplish. We will continue to pursue this effort. Lower Elkhorn NRD has worked with many agencies and entities over the years building a wide variety of projects for many of the 49 cities and villages within our boundaries. Those projects may involve funding support and technical advice from other agencies such as the Nebraska Forest Service, USDA, NRCS, Nebraska Game and Parks Commission, and many others. Urban Forestry and tree planting improvements, park and recreation updates, improving public recreation plans are much appreciated by the small communities, simply do not have the staff to do those things or the time. Recreational trails have been developed and funded in ten of our communities with several others now in early planning stages. Protecting municipal water supply is also a top priority and the NRD has assisted several communities by helping develop wellhead protection, providing public water cost share for test wells, helping locate and monitoring well sites, and providing sampling in wells for small towns on a limited basis. As mentioned before, the Interlocal Cooperation Act offers a vehicle for legal agreements between NRD and the various agencies while establishing a methods to leverage funds and complete projects. In your packet today, I handed out which is the task report from July 1, 2008, to June 30 of '09, we currently have 89 conservation partners that we're working with on our interlocal agreement, illustrates the diversity of our programs and projects. The map also references each interlocal agreement by community. This is a sample of today's work, scores of past projects were managed in the same fashion. We also strive for a win-win situation. It's not easy to do that, but we try very much and our track record does bear it out. I thank you for the opportunity to testify. And glad I didn't vaporize, Chris, when the red light came on, so appreciate that. (Laughter) Certainly try to answer any questions. [LR181]

SENATOR LANGEMEIER: That's the blue light. That's that blue light on there for the vaporization. [LR181]

STAN STAAB: That's kind of scary. [LR181]

SENATOR LANGEMEIER: Any questions? Seeing no questions, you've been let off the

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hook easy. [LR181]

STAN STAAB: Thank you. Thank you very much. [LR181]

SENATOR LANGEMEIER: Joe is back. [LR181]

JOE ANDERJASKA: I'm back again. Sorry. [LR181]

SENATOR LANGEMEIER: No. Look forward to it. Ready when you are. [LR181]

JOE ANDERJASKA: I thank you for your time and for putting up with me, so. My name is Joe Anderjaska, J-o-e, Anderjaska, A-n-d-e-r-j-a-s-k-a. As I stated before, I am a director in my third term on the Middle Republican NRD, and I am our board rep on the NARD where I am vice president. While some possible improvements and efficiency may be achieved, this testimony should be considered as being opposed to reductions in the number of districts. This issue can be very emotional when it appears that it is being considered as some sort of punishment for the perceived actions or inactions of some district boards. It has been said that boards are dominated by farmers or ranchers, yet who better to conserve, protect, develop, and manage the natural resources of the state than the very people whose livelihood depends upon the wise utilization of our resources? District boards are made up of people from all walks of life. Sure, there are farmers and ranchers, but there are also doctors, lawyers, Main Street businessmen, teachers, and men and women from all walks of life, men and women who in some districts only receive a small per diem for their service and ask no more than the support of the state that keeps adding to their expanding areas of responsibility. My district has had three sets of father/son pairs who have served on the board. We have also had a state senator serve on our board. Many districts have board members with over 30 years of service. Board members serve on power district boards, school boards, village boards, and city councils, men and women dedicated to service in their communities because they know the importance of local control, men and

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women who have condemned their friends and neighbors for land rights because of the importance of floodwater control, men and women who have imposed regulations on their neighbors for the use of water because of the importance of maintaining this resource for future generations. The NRD movement into the groundwater management has been ongoing for almost 35 years. The Republican Basin has had many firsts with regard to groundwater management: the first control area, the first groundwater management plan, the first and second special protection areas, the first moratorium, the first temporary suspension, the first four requests for a determination of conflicts under the authority of LB108, and the first three integrated management plans. While we are still the entity that plants trees, builds dams, develops wildlife habitat, establishes recreational areas, administers conservation programs, and so much more, our groundwater quality, quantity, and integrated management programs consume a major part of our time and budgets. This year, my district will commit almost \$1.3 million of its budget toward the groundwater management. We continue to retire acres both permanently and temporarily to keep our water use at a sustainable level. While our allocations have been at 13 and now 12 inches over the last five years, our use has averaged less than 9 inches. We are working this year on a concept that, while disliked by many, may very well help the state stay in compliance with the Republican River Compact for the long term. In the past, we have purchased surface water and passed that water onto Harlan County. We have participated in the riparian projects and are developing a concept to augment streamflow. Local control is important to Nebraskans. We don't have one county, one school board, or one city council for the state, we have many. Local control works because of the first-hand knowledge and experience brought to our boards by local citizens willing to make the hard decisions necessary for our natural resources, local men and women who know what their neighbors can do and have done. There's no doubt that any organization or entity can be improved or made more efficient. NRDs are no different. But without that local input, there can only be government from afar without any sense of importance or of our other resource--the hard-working men and women of the state of Nebraska. Thank you. [LR181]

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SENATOR LANGEMEIER: Very good. Are there any questions for Joe? Seeing none, you're off easy too. [LR181]

JOE ANDERJASKA: Thank you. [LR181]

SENATOR LANGEMEIER: Thank you for your testimony. Next testifier. [LR181]

JOE ANDERJASKA: I think I should have brought you guys bigger folders. [LR181]

SENATOR LANGEMEIER: We'll provide them boxes for the ride home. [LR181]

JOE ANDERJASKA: Okay. [LR181]

MIKE MURPHY: (Exhibits 19, 20) Good morning, Senator, Senator Langemeier. I'd like to thank you for the opportunity to have the hearing here in Valentine and the opportunity yesterday afternoon to spend some time with some of you. My name is Mike Murphy, M-u-r-p-h-y, general manager of the Middle Niobrara NRD, one more of Senator Fischer's NRDs. Isn't she just a great NRD supporter and of all our natural resources? We appreciate it. And we appreciate all the efforts you guys do too. We view our role as the local natural resources district to generate opportunities to maintain and enhance natural resources for the benefit of Nebraska's land and people throughout the state. One of our top priorities is to maintain and strengthen our relationships with all agencies and staff. We continue to work on a local basin and state level to meet resource conservation goals. Of the district's 2.9 million acres, approximately 97 percent of the Middle Niobrara district remains in native grassland and riparian areas. That leaves only 3 percent that is irrigated with minimal possibilities for expansion. The district has provided 1.8 million trees over the past 25 years. We continue to inspect approximately 350 irrigation systems for proper chemigation equipment and collect over 200 water samples to monitor for nitrates and pesticides to maintain clean water for people to use. We maintain public relations with all individuals and entities across the

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state. We work with the local people to help solve today's and tomorrow's issues. This helps gain support for our programs that we have to offer. We continue to build our relationships with the decision makers of the state so that we can maintain and increase funding as necessary to dovetail the viability of Nebraska's natural resources as it relates to state and national conservation programs. We continue to work to find ways to utilize the regional resources. Tourism has helped us diversify the uses of our local resources. An example of this is utilization of the Niobrara River and the riparian forest for grazing, river recreation, timber by-products, and hunting opportunities to help keep land being utilized by private individuals. Through educational opportunities, we have been able to work with schools and community groups to do projects that benefit the area and provide information and assistance for all individuals. Let me expand a little more on the Niobrara Basin facts that Mr. Kadlec talked about. The basin, from one end to the other while driving, is approximately 375 miles. If we become one basin, that would take a director over six hours to drive while averaging 60 miles per hour. And, of course, we all try to abide by the speed limits out here. Currently, there are 35 directors and 26 staff in those three NRDs. If we all have to drive to one location, it makes things a little more complicated, a little more difficult, a little more expensive. These are people that live in and are active in the local communities, have children in the schools, and help rural Nebraska towns survive. The Middle Niobrara NRD contains the vast majority of the Sandhills of the three basin NRDs. One river basin? Yes, but our soil types, vegetation, and precipitation vary greatly. Three NRDs and three groundwater management plans. Segmenting management allows those segments to focus on programs and practices tailor-made to the needs of the area, and reduces the number of variables managers have to consider when making management decisions. Consolidation of NRDs would require restructuring of these management plans which, in turn, would create a broader plan and the broader the spectrum of management, the greater the opportunity for errors and loopholes in a system which ultimately drives home the most important fact: It will reduce public involvement. Locally, the Niobrara River shows its diversity from its wide, verdant valleys to its steep sandstone canyons, waterfalls, and cliffs. In fact, a 2005 university graduate project identified and

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documented over 200 waterfalls east of Valentine. With five ecological systems meeting along 30 miles of the river, a unique mix of plants and animals call the Niobrara home. Today as you head south to Ogallala, take time while you are driving through 20,000 square miles of Sandhills to enjoy the beauty of the rolling dunes covered with grass, not irrigation. To sum things up, the Middle Niobrara NRD continues to be at the cutting edge of issues, programs, and funding to help ensure local, state, and national security for the resources of the state of Nebraska. We have provided you a folder of information pertaining to the activities, programs, and projects of the NRD. Thank you for the opportunity today to testify on LR181 and we look forward to working with all of you here today and the rest of the Legislature into the future. [LR181]

SENATOR LANGEMEIER: Okay. Thank you very much. Are there any questions? Seeing none, they're going to let you off too. I thank you for the tour, for the information. Welcome. [LR181]

SCOTT JAPP: Good afternoon, senators. My name is Scott Japp, S-c-o-t-t J-a-p-p. I'm here to oppose the bill, but my issue that I want to bring up is the example that I have representing the...being the director of the Papio-Missouri NRD district where I represent a rural area covering 120 miles in Lincoln approximately 25 miles in length being the only director. If there's...my concern is if there's a realignment, the rural directors will lose out if we keep picking directors on a population base. I would really like to support, if there is a merger, that the directors would be picked on a geographical-base and not a population-base so you would have more diversity from the entire region instead of it being centralized in one major city or in that case. For an example in my NRD district, 25 years ago we spent approximately \$750,000 on conservation practices and we had a budget of approximately \$7 million. Twenty years later, we still spend \$750,000 and we have a \$64 million budget, a majority of that being recreational purposes for Omaha, so. That's all I have today. [LR181]

SENATOR LANGEMEIER: Very good. Are there questions for Mr. Japp? Seeing none,

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thank you very much. Very good. Further testimony. Welcome. [LR181]

CYNTHIA PETERS-TIMMERMIER: Good afternoon. Cynthia, C-y-n-t-h-i-a Peters, P-e-t-e-r-s, last name Timmermier, T-i-m-m-e-r-m-i-e-r. I promise I'll tell you something different. Thank you, Senator Langemeier, for having us and, Senator Fischer, for bringing us here and, Senator McCoy, for your idea of this study which is needed and good. I speak as a neutral party on LR181. And you're all experts in government. I'm going to tell you things you already know but remind you of those things in the context of why we're here today. Our government, for over 200 years, has been based on a three-part system of balance of powers. We have the executive, the judicial, and the legislative. And this works because it does exactly what it's supposed to do. It provides oversight to protect the public and also to avoid any abuses of power. How are the balances of power working in our NRD system which is almost 40 years old now? Well, of course we have the legislative power. We get to elect our NRD representatives, like Mr. Japp, and they represent the interests of the public, they have taxing authority, and the power of eminent domain. The judicial part of NRDs is a little bit harder to define. We see that occasionally courts review their decisions and exercise the authority and very much more often we see that courts review their valuations of land that they take by exercise their power of eminent domain. With regard to legal as well as judicial involvement, the NRDs seem to be a little bit all over the board. They don't have a specific attorney. Each NRD is paying for its attorney or, in some cases, for many, many different firms of attorneys. And they get their legal information about what's right and what they think is going to happen in the realm of water law, particularly from a number of sources. But I don't think they have an attorney they can call their own. They have the Attorney General, but I'm not sure he's their attorney. They have their own attorneys, but their own attorneys are seeing things only from their local perspective and not from the perspective of a statewide issue that may develop. And if you all read the World-Herald yesterday I'm sure you saw the blurb at the end of the paragraph where it said, well, in Senator Carlson's district some attorneys told the NRD board that one thing would happen and they'd be okay, but then that didn't happen. And one has to

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wonder what the outcome would have been had the NRD possessed its own specific counsel and had a consistent source legal analysis for its own specific problems. Finally, in looking at the NRDs, where do we find the executive authority for the NRDs? Tell me. It can't be the general managers, for one thing, they aren't elected by the people. It can't be an assembly of all the directors from all the NRDs because, as we've heard today, their interests are important, local interests. But they don't have a mechanism for viewing things from a statewide perspective, that hasn't ever been created for them. Obviously, their leader shouldn't be the NRD with the biggest coffers and the largest population base. So where does that leave our NRDs in terms of executive authority? Who is a final arbiter? Who's somebody who says, this is beyond your authority, this needs to be aligned, this needs to be trimmed down? There is no such authority. So when we talk about realigning, I see Senator McCoy's wonderful idea as a chance to streamline and pare down, not to consolidate but to give leadership and fiscal policy and overall statewide policy issues. And, happily, Senator McCoy has come up with this idea just at a time when we have a very large statewide policy issue with Senator Carlson's district and also we have, if you will, a silt of other fiscal issues that have come up because of a lack of standard procedures. We need oversight from someone and it's your responsibility to figure out how. But we do need an executive form of oversight so that NRDs can do their job efficiently and correctly in this state. Thank you. Are there questions of me? [LR181]

SENATOR LANGEMEIER: Are there any questions? Senator Carlson. [LR181]

SENATOR CARLSON: Senator Langemeier. On your...the point about my district being told that things were okay, and then earlier you made a point about the NRDs having an attorney or the state having an attorney and, of course, I think what you're referring to the attorney of the state did say things are okay, don't worry about it. So I'm not sure what you're getting at there in terms of change that would have eliminated that probability. [LR181]

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CYNTHIA PETERS-TIMMERMIER: When...Senator, when you speak of...I don't...the paper didn't identify who that was, but I believe you if you say it was somebody from the Attorney General's Office. It may well have been. The Attorney General's Office duty--and I am an attorney--is to the state of Nebraska, to the whole state and to all the people. It's not particularly to the NRDs or to how they create and enforce water policy. The NRD's closest thing to their own legal source to tell them what to do is their own attorneys, but there are many, many attorneys that say, I'm the NRD's attorney. And yet not one of these...and if you added up the legal fees that they're paid, I'm sure they're quite large, don't you think. Not one person that I know of is looking at a comprehensive view of what all NRD ongoing projects are doing, what the potential consequences are legally and fiscally, and I don't know that there was a person that could have been asked under the present scheme and structure of NRDs. [LR181]

SENATOR CARLSON: Well, if you're saying that we have a problem in the legal system, I agree with you. And I won't go into any solution to that, but I think that decisions were made based on the best available information even from a state level at that time and hindsight is always 50/50. [LR181]

CYNTHIA PETERS-TIMMERMIER: That's true, and I list legal services and dissemination of legal knowledge as one area where we all might really benefit. We can do our things locally and maintain our local control, but make sure that we're seeing the whole picture from a fiscal as well as a good legal standpoint. [LR181]

SENATOR CARLSON: Thank you. [LR181]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. Good afternoon. [LR181]

DAN WILES: (Exhibit 21) Good afternoon, senators, Senator Langemeier. I hope you bear with us just long enough. The food smells good and I'm ready to go myself, but. I

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am Dale Wiles, D-a-l-e W-i-l-e-s, vice president of the Nebraska Well Drillers Association and general manager of Grosch Irrigation, O'Neill, a water well contractor in north-central Nebraska and I am opposed to LR181. Our company works in several NRDs, and this is a very workable situation which brings relationship of knowledge and...of their districts, their distinctness in their district, each having specific water and groundwater conditions. I am opposed to combining of districts and remain with local control. The specific district that I live in is the Upper Elkhorn NRD. They have approximately 4,000 wells. And if you look at the map that was issued or was given to you earlier, many of these colors that you're seeing here, as a well driller we have...water well contractor, we have a considerable difference underneath the ground which is showing up in many of these areas as soil types. Over the years, we have seen a reorganization of Health and Human Services at least three times with no improved services. But each time this has been an additional cost to the taxpayers of Nebraska. Large government is and has been less efficient. The eight Lower Platte NRDs science and data was the main factor in changing the determination of the Lower Platte last April. This was their sound science and enabled the NRDs...NDNR to rescind the fully appropriated designation. They combined with the eight districts, with some associates, hired one attorney, and met the issues at hand and brought the information to the DNR. The NRDs, with their board of directors, provide a high qualified form of local management of our natural resources. The current system works well. I am opposed to LR181. Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, they're going to let you off too. [LR181]

DAN WILES: Thank you. [LR181]

SENATOR LANGEMEIER: Thank you. Mr. Franzen, welcome. Welcome. [LR181]

MYRON FRANZEN: (Exhibit 22) Thank you. Chairman Langemeier and members of the

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committee, my name is Myron, M-y-r-o-n, Franzen, F-r-a-n-z-e-n. I live at Columbus, Nebraska. I'm here today, as a couple of the prior speakers, about some changes that I think need to be implemented as far as the NRDs are concerned. My involvement has only been with the Lower Elkhorn Natural Resources District based in Norfolk. I learned a lot about the LENRD with the building of the dam at Leigh. I found out there is no appeal process for any of the decisions made by the LENRD with regard to projects except through the courts. This makes it very tough for an individual to deal with a governmental entity. There needs to be some avenue for the public to appeal decisions made by the NRDs. I believe one provision passed during the last legislative session is a step in the right direction: The requirement that the local county board had to approve any lake that would be over 20 acres in size for the Papio NRD. I believe this would be...this should be required for all NRDs over the whole state. In the case of the dam at Leigh, the community survey showed that approximately 80 percent of the local people opposed the dam. That didn't matter to the LENRD. They just went ahead and built it anyway because they could. Having the approval of the local county board would give the local residents a third party evaluation of the proposed project. At the present time, the NRDs are accountable to no person, group of persons, or agency. The Unicameral created the NRDs, so it will have to be the Unicameral that takes actions to limit the NRDs. On the issue of the NRDs managing recreation areas: When the NRDs first started building dams, recreation was a side benefit. Now, in my opinion, recreation is the main focus of some of the NRDs. Since Game and Parks no longer has the power of eminent domain, the NRDs are filling that role. The application for the Leigh Dam in the benefits per year, they included \$44,000 for conservation, \$285,000 for recreation. Yet the NRD management and board called this a conservation dam. To me, it's not; it's a recreation dam. If the NRDs can build recreation dams wherever they wish and then manage the recreation area, it's building job security for themselves. Why should the taxpayers of each NRD territory have to pay the expenses for the management of recreation areas when those same taxpayers never got to vote for or against the building of this recreation facility? Let me repeat: I believe the NRDs should be forbidden from managing recreation facilities. Thank you for listening to my concerns.

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[LR181]

SENATOR LANGEMEIER: Very good, Mr. Franzen. Are there any questions for Mr. Franzen? Senator Fischer. [LR181]

SENATOR FISCHER: Thank you, Chairman Langemeier. Thank you, Mr. Franzen, for being here. I think you bring up several points here that truly deserve our consideration. When you ended and said that you believe the NRDs should be forbidden from managing recreation facilities, you know, when a by-product...it used to be a by-product of a dam was recreation. [LR181]

MYRON FRANZEN: Yes. [LR181]

SENATOR FISCHER: And as you pointed out, there's some question now by a number of people on if it's a by-product or if it's the purpose of it. But if the NRDs are forbidden from managing that facility, do they then get to choose who's going to be the manager of it? What would the process be because you would have to have somebody manage it? Do you want Game and Parks to manage it? [LR181]

MYRON FRANZEN: Yes. When it was originally started, that was the purpose, I mean, as far as recreation was managed by Game and Parks, and I think it should go back to that, all of it should be under Game and Parks. [LR181]

SENATOR FISCHER: I think, you know, you can visit with some local people here out at Merritt Reservoir that that was an irrigation project, the dam, and it is managed, the land around it and the lake then, by Game and Parks. But there might be some folks that say we don't need another state entity managing another facility. Game and Parks, they don't have enough...they tell us they don't have enough money right now to manage their parks or their recreation areas that they currently have. If you have NRDs handing over projects, how would they be able to handle that? Do you have any

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suggestions there? [LR181]

MYRON FRANZEN: Yeah. Well, the local NRD will levy taxes to pay for management of it. To me, it should be state because the whole state can come and use it, out of state people come and use it. I think Game and Parks should be the entity that does manage it. [LR181]

SENATOR FISCHER: If you have the local NRD levy taxes to manage it, though, that's local property tax and you can't levy local property tax for a state purpose. [LR181]

MYRON FRANZEN: Well, but I think the state should be the ones, through Game and Parks, to manage the recreation areas, not the local NRDs. [LR181]

SENATOR FISCHER: Okay, okay. Thank you very much. [LR181]

SENATOR LANGEMEIER: Senator Carlson. [LR181]

SENATOR CARLSON: Senator Langemeier. Mr. Franzen. [LR181]

MYRON FRANZEN: Yes. [LR181]

SENATOR CARLSON: In talking about the Game and Parks should be the ones that manage it, they don't have the money and they don't have a source of money, so that's a problem. It's one thing...I might even agree with you, but it's one thing to say they ought to manage it and then they're supposed to find the money and they don't have the money, so that's a problem. [LR181]

MYRON FRANZEN: Well, they get their funds from the state. [LR181]

SENATOR CARLSON: They get their funds from permits. [LR181]

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SENATOR HANSEN: And the state. [LR181]

SENATOR CARLSON: And so they can't demand that everyone buy a permit. [LR181]

MYRON FRANZEN: No. [LR181]

SENATOR CARLSON: And that's... [LR181]

MYRON FRANZEN: But, I mean, to me the building of recreation dams in the NRD territories can create job security for some people and stuff that are involved in the employment of the NRD. [LR181]

SENATOR CARLSON: Well, that could be but we're talking now about Game and Parks that didn't build the dam in the first place. I'm just defending them a little bit because they've got funding problems and so it's kind of easy to put the blame on somebody--it's your responsibility to fund this, but they don't have a way of funding it. I want to get off of that. [LR181]

MYRON FRANZEN: Well...(laughter) [LR181]

SENATOR CARLSON: I just wanted to make a statement. But there's something really interesting in what you wrote here in the case of the dam at Leigh, a community "survey showed that approximately 80 percent of the local people opposed the dam." We often read statistics and we're quoted statistics that can be kind of scary. Expound on that a little. What is the survey? How many people did it involve and who did it and who compiled it? [LR181]

MYRON FRANZEN: The local community club did it and compiled the information. True, Leigh is a community of only about 325 people, but they had some of the surrounding...I

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don't know how far they went, not living there I cannot answer that question. But they had around 80-some votes that was opposed to it and 20-some votes...I mean, yeah, 20-some votes in favor and something like around 30 neutral. But the local community itself...well, to back up, give you more information. Back in the late seventies, the NRD wanted to build 28 dams on Maple Creek that went all the way from Leigh to Nickerson. The public opposed it so bad at that time that the LENRD board passed a motion that they would not build the dams if the property owners would put in terraces and grass waterways. Many property owners did, including myself. I built several terraces and grass waterways. Come to the time here about seven, eight years ago, lo and behold the NRD says we're going to build the dam anyway. So the relationship and stuff as far as the local community there with many of the property owners, etcetera, has not been good. [LR181]

SENATOR CARLSON: Okay. Thank you. [LR181]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much, Mr. Franzen. [LR181]

MYRON FRANZEN: Thank you. [LR181]

SENATOR LANGEMEIER: Welcome. [LR181]

TONNY BECK: Thank you. My name is Tonny Beck, T-o-n-n-y B-e-c-k. I'm a resident of Ainsworth, Nebraska. I am a third generation water well contractor. My grandfather started in the well business in Ainsworth in 1950. We operate in an area basically from Cody, Nebraska, to O'Neill south to the south side of the Blaine County line, east and west down towards Taylor. That's our general operating area, and then on up into South Dakota. I am here definitely opposed to seeing the NRD districts being consolidated in any manner. We deal with such a large region and with such a wide variety of geologic formations that it's hard for me to comprehend...I've been doing it my entire life and I still

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don't have a good grasp on all of our regions. It's hard for me to figure out how anyone in Lincoln can think that they're going to manage it better than the people that are there on the local level. And I don't want to see the way we're doing it now change. I am one of only eight water well contractors between Cody and O'Neill. I'm the face that provides a service to the end user, the people in our communities. I'm the person that they go to when they need a water source for whatever reason, domestic, agriculture, irrigation. I am who they come to. You know, there aren't very many of us. And I can tell you as being one of those very few contractors that do that and provide that service, that combining these NRD districts would be a huge mistake because, first of all, the interaction that we have with those customers, you know, we're providing the most essential thing in their life, and most of them don't realize it until it's an emergency. And you need to have a little perspective of that I think. I'm not going to take up a lot of your time. If you have questions about anything in this region, I would love to answer your questions, other than that, that's all I have to say. [LR181]

SENATOR LANGEMEIER: Doing good. Are there any questions for Mr. Beck? Senator Fischer. [LR181]

SENATOR FISCHER: Thank you, Chairman Langemeier. Hi, Tonny. How are you? [LR181]

TONNY BECK: Hello. [LR181]

SENATOR FISCHER: Thank you for staying the duration and being here. How...I appreciate your expertise and the expertise of other well drillers because, as you said, you're third generation and so you have a lot of history in what the formations are in this district that you cover. How closely do you work with the NRDs within your service area in providing them with information? [LR181]

TONNY BECK: We work as closely with them as we possibly can. If they have

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questions on anything, we try and help. Typically it's done in a manner where...I had worked with Reed Welke here at the Middle Niobrara district a lot. You know, if they have...you know, they wanted to do a groundwater depreciation study here in our NRD district and basically drill a high production well, pump it for an extended period of time, monitor it, see how it interacts with the river flows and things like that. And I worked with Reed in trying to pick sights for that study because they wanted the...we have in our region and some parts of our regions we have actually multiple water-bearing formations of different depths. And so I worked with Reed in trying to pick the spots that we thought might work for that just to get them started. Then the USGS took the ball from there and ran with it and I didn't have anymore insight into it other than that. But when they ask, we're sure more than happy to try and help. [LR181]

SENATOR FISCHER: Do you work with the NRDs, at least those NRDs who are required to have an integrated management plan, do you work in any way with that? Are you on any committees for that? [LR181]

TONNY BECK: I'm on the Middle Niobrara integrated management plan stakeholders committee. I am one of those stakeholders on that board. [LR181]

SENATOR FISCHER: In the IMP, are...I don't know this, are they considering the different layers in a formation and the effect that has on a basin? [LR181]

TONNY BECK: We haven't even got to that point yet. [LR181]

SENATOR FISCHER: Do you think that needs to be included in a plan? [LR181]

TONNY BECK: It certainly has to be dealt with. I mean, we're dealing with recharge rates that vary from days and weeks in some of these aquifers to millennia depending on the depth and locations and how they effect the river flows. So absolute...you know, it's...the biggest problem we have in our basin is we don't have any type of a

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groundwater model to make any good, sound, science decisions off of. You know, one of the very first things when we started talking about 10/50 lines with our integrated management plan was the sheer fact that the 10/50 line has been established, and the data in which it was established with, in my personal and professional opinion, is so incredibly skewed to what reality is it's a joke. It's hard to say we're going to develop an integrated management plan, we're going to make these decisions based off of this 10/50 line, and I look at this 10/50 line and I laugh and say, there's no way, you know. We have spots where we're only three miles from the river. We've had irrigation development and irrigation wells since the late 1960s three miles from the river, and we are...we're blessed with the fact that we're in a region where we aren't...you want to talk about sustainability, you're setting on top of it. We're in an area where we don't even come close to scratching the surface of what the resource is capable of. Okay. We irrigate every season, and every season my customers shut off in September, and three days later the water level is back to where it was when they started in the spring. Okay. We don't have declining water tables anywhere other than in a few little, tiny, isolated areas where there's no irrigation. You can't hardly get a house well in those regions. Okay. So when I see 10/50 lines that are south of Ainsworth ten miles telling me that irrigation wells are ten miles south of Ainsworth, they're going to have an effect on river flow in 50 years time when I've got irrigation wells that are three miles from the river and the water table is exactly at the same elevation as it was in 1969 when the well was developed, or within a foot, and that's been a variable based on precipitation year to year. I look at that information and I go: How is it that we're supposed to make a true, integrated management plan when the data is so incredibly skewed? And, you know, that's one of the big things that I've pushed for in our stakeholder's meetings is we have to start gathering better data. That's what part of this test that I'm talking about the NRD and USGS is doing. They're going to be able to put the science behind what I've been trying to...what I'm saying. When they get done with those numbers, my professional opinion is it's going to prove what I just told you, that Mother Nature is keeping up with what we're doing in this region. We're not hurting the resource. We have room for more development. We don't have a lot of acres that really qualify for trying to do

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development on. There isn't a big desire for more development, but we have situations that arise when we want to be able to do something that pumps more than 50 gallons a minute. Right now we can't do it and it doesn't make any sense. [LR181]

SENATOR FISCHER: I would be interested to have you give me some information, if you can send it to me, if you feel that current water law in Nebraska needs to be changed, what changes there need to be to LB962. (Laugh) Not now. We're already late today. [LR181]

SENATOR LANGEMEIER: That's a different day. [LR181]

TONNY BECK: Yeah. We're overtime now. There's no sense getting started on that. Yeah. [LR181]

SENATOR FISCHER: Yeah. We're supposed to be in Ogallala at 4:00. We've already missed that, but if you could send that to me and anybody else in the audience, too, if you could send that to me because I have heard so many stories like yours where current law does not take into consideration in any way the differences that we see in the diversity in this state when it comes to everything, including water. [LR181]

TONNY BECK: Absolutely. [LR181]

SENATOR FISCHER: So I'd appreciate you sending me that. [LR181]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much for your testimony. [LR181]

TONNY BECK: Thank you. Thank you for your time. [LR181]

SENATOR LANGEMEIER: Thanks for sticking around. [LR181]

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TONNY BECK: You bet. [LR181]

SENATOR LANGEMEIER: Further testifiers. This must be my last one. No one else is in the on-deck chair, so. [LR181]

KENT FRANZEN: Thank you, ladies and gentlemen of the committee. Thank you, Senator Langemeier. My name is Kent Franzen, K-e-n-t F-r-a-n-z-e-n. I'm from Wayne, Nebraska, and my experience is strictly with the LENRD. There's a couple of things that I'd like to hit on. I don't know so much about the consolidation, Senator McCoy, that you're proposing, but there are several things that I would like examined in this. One is the LENRD covers 15 counties and is ruling over 95,000 people, but yet their open meetings requirements are no different than a village of 300. Where they post their meetings notices, how they run their agenda, what they keep in their minutes--no different. I would like to propose several changes. Number one, that they be required to post their agenda and everything on the Internet so that the total population can get to them; that those minutes be available on the Internet; and that how they keep their minutes be changed. I'd like to see them be required to keep a summation of everyone who shows up before their board and brings up something to at least have an attempt at a summation of that subject kept in the minutes. Right now, state LENRD policy is, is that if your testimony does not result in a resolution, you're not even recorded as being present at the meeting. So that's several things I'd like to get changed. The next thing that I'd like to get changed about the LENRD and the DNR is these projects are funded. Senator Carlson, you mentioned that Game and Parks is short funding. According to the study that justifies the dam at Leigh, 41 percent of the population of the LENRD fishes. If that's the case and they're selling that many permits, how could Game and Parks possibly be short? They also state that there will be over 165...if you extrapolate their numbers, there will be over 165 swimmers present at the Leigh dam each and every day of the swimming season. That will increase the population of Leigh by one-third. So how these are funded, they claim \$285,000 worth of recreational benefit from this dam

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and, I'm sorry, it's smoke and mirrors. I just don't see it. I don't see it happening. As far as the funding between Game and Parks and NRD, I think a fundamental need that needs to be taken care of first is need. How many of these projects are actually justified? Dr. Ray Supalla did a study of the McConaughy Dam, whether it was more beneficial to keep that water in there for recreation or to let it out for irrigation. According to his study, he says that: campers at McConaughy are the premier recreation dam in the state, I think. Spend on average an average of \$12.46 a day in the state. His conclusion was the five-county economics or the five-county area around the dam isn't dependent upon the dam at all and would hardly notice it if the dam were gone. I think we need to take a very, very serious look at who is using these projects, how they're using them, and who is paying for them and what the return is, and it needs to be hard data. When we were trying to fight the Leigh Dam, I looked at the sales tax data for Pierce and Stanton, and I can tell you from what I saw the sales tax data there is no economic return for either Maskenthine or Willow Creek, to either one of those communities or counties. So those are the two big points that I'd like to make. And, you know, I just think that these NRDs...you know, there needs to be some kind of a trim down in their responsibilities. One of the things according to statute is they're supposed to be responsible for solid waste management plans. How about a study by the economics department of UNL of all these NRD budgets to see how much is being spent on these priorities and to see if the Legislature agrees that all these priorities are being followed? You've got a laundry list in the statute of about 12 things. And one other thing about the combination between the NRD and the Game and Parks, there is a process called the "state comprehensive outdoor recreation plan." All the NRD projects that are proposed are supposed to comply with that plan. If they are not complying with that plan, why do we have a problem with resources and funding? It would seem to me that that should be part of that and I don't think it is. And so I think there's a lot of tightening up that we need to do--where we spend our money, how we spend our money, and who gets to decide. And that's the things I'd like this committee to consider very much. Thank you. [LR181]

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SENATOR LANGEMEIER: Thank you, Mr. Franzen. Are there any questions? Senator Schilz. [LR181]

SENATOR SCHILZ: Just more of a comment than anything. Thank you for being here today. I would like to inform everybody that--just a statement--even if those folks that do visit McConaughy spend only \$12 a day, the preliminary numbers that we have received was that it was 865,000 visitors to McConaughy this year. That's \$9.4 million. I think Keith County notices that. Thank you. [LR181]

KENT FRANZEN: I would encourage you to read Mr. Supalla's study, sir. [LR181]

SENATOR SCHILZ: Twelve dollars a day. That's fine, but our numbers show that 865,000 people visited and I appreciate that. Thank you. [LR181]

SENATOR LANGEMEIER: Thank you. Are there any other questions? Seeing none, thank you very much for your testimony. So with that seeing no more testifiers, for the record we have letters introduced by Randy Rohrs from the Nemaha County Board of Commissioners, Rod Imm from the Ainsworth Irrigation District, Jaron Bromm with Fennemore Craig, P.C., Mitchell--I'm going to say this wrong--Counce with Servi-Tech--we'll have it right in the record--Jackie McCullough with the American Council of Engineering Companies of Nebraska have entered letters for the record. (See Exhibits 23-32). With that, we'd like to thank everybody for coming...I asked him if he was going to close, he said no. So with that, we'd like to thank everyone for coming out here today and testifying and sharing your thoughts. It's very important to the process. And, again, thank you and that concludes our hearings for Valentine, Nebraska, today. Thank you. [LR181]

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[LR128 LR181]

The Committee on Natural Resources met at 9 a.m. on Wednesday, October 7, 2009, in the Ockinga Seminar Center at the University of Nebraska at Kearney, Kearney, Nebraska, for the purpose of conducting a public hearing on LR128 and LR181.

Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tom Carlson; Deb Fischer; Ken Haar; Beau McCoy; and Ken Schilz. Senators absent: Tanya Cook. [LR128]

SENATOR LANGEMEIER: Oh. I guess I'm told we're not ready. Are we ready? Good morning and welcome, everybody, to Kearney to the University of Nebraska at Kearney campus. I'd like to welcome you here. This is the Natural Resources Committee hearing for LR128 and then LR181. My name is Chris Langemeier; I'm the Chairman of the Natural Resources Committee. I'd like to introduce the people around the table with us today. We have more than just the committee, which we greatly appreciate. Starting to my far right or to your far left, we have Senator Ken Schilz from Ogallala, Nebraska. We have Senator Ken Haar from Malcolm, Nebraska. We have Senator Tom Carlson from Holdrege, Nebraska. And there I am saying "Nebraska" every time. It's a habit; I can't break it. Laurie Lage is the legal counsel for the Natural Resources Committee. We have the Vice Chair of the committee, Senator Annette Dubas from Fullerton. I have Senator Beau McCoy from Elkhorn, Nebraska. We have Senator Mark Christensen from Imperial, Nebraska. We have Senator Dennis Utter from Hastings, Nebraska, and Senator Tom Hansen from North Platte, Nebraska. And it's just going to be in my vocabulary--Nebraska; I like it. Today we are going to start with--well, let me introduce a couple other people. I'd like to introduce...we have some guests out in the crowd. From the Department of Natural Resources, we have Director Brian Dunnigan. He kind of keeps a low profile there. Ron Theis and Susan France with him. We have from the Department of Environmental Equality, we have Director Mike Linder and Carla Felix; I saw them both. From Governor's Policy Research Office, we have Mark Matulka--right there. And then from the U.S. EPA office, we have Sarah Hatch from the Kansas City

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region office. And then we have Steve Chick with USDA, who's up front. We'd like to welcome them to participate with us here today. And yes, I skipped. Clear to my far right, we have Barb Koehlmoos, who is the committee clerk for the Natural Resources Committee. She's been telling me what to do all morning. If you're here to testify, you'll see in the back of the room, you'll see these green sheets. We ask that if you are going to testify that you fill these out. And when you come up, there's a basket right here at the table that you put it in there. It helps us keep a good record and an accurate record of those of you that wish to testify--and have done that. There's also this sheet in the back of the room. If you're here today and you want to be on the record as being here and part of the process but you're not going to testify, you have the option, you can sign in on this sheet--you don't need to do both--but you can sign in on this sheet. That way we know you're here and part of the process but you didn't choose to testify. At this time I would ask that you turn your cell phones off or to vibrate so we don't disrupt the process of those coming forward to testify. With that, we'll get this started. Oh, you'll see at the table a light system. You get five minutes to testify--you get four minutes of green light, one minute of yellow. And just as an idea, how many are here to testify on the bills--one or the other--today? Okay, we're going to have a good crowd. So when the red light comes on, we're going to ask you to stop. Then we'll open you up for questions, and then we'll continue to proceed with that. So you'll see the lights in front of you. So with that, we're going to open the hearing on LR128, and I'll give a brief introduction. We've done a little P.A.; well, hopefully, you can hear the testifiers a little better as they look away from you. How's that? Is that helping? About there? This way at least you can hear the testifiers as we go through this process. Again, my name is Chris Langemeier, C-h-r-i-s; Langemeier is L-a-n-g-e-m-e-i-e-r. I'm from Schuyler, Nebraska; I'm here to open on LR128. I introduced LR128 as being the chairman of this committee for a year and being involved in water issues my entire life in the Legislature. So many people have come to me and said: Chris, we need a state water plan. And as I inquired into what they thought a state water plan was, I could see that it was pretty obvious there were a lot of different definitions out there. So the goal of LR128 in my mind, for this round, was to get people to vocalize what their definition is. And just for

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the crowd here--the senators have heard this--but I sent out an e-mail to everybody on the Water Policy Task Force and asked for their input, and I've gotten a number of individuals that have sent me letters in regards to what their definition of a state water plan is. The key, in my mind, is in as we try and develop a definition, then into the future you can actually develop something of a state water plan. But you've first got to figure out what that...what does a state water plan actually mean? And so we've gotten some great feedback. We want to create something that isn't a policy that's not recognizing of the uniqueness of our state in the particular areas. We don't want something that sits on the shelves in Lincoln and becomes a mandate from Lincoln onto the citizens of Nebraska. I think a statewide plan...and this isn't a policy; this isn't statute; this isn't 962. This is an idea to start to recognize all the uniqueness features of our state, whether it's environmental, irrigation, municipality, and the list goes on and on and on. So with that, I'm going to conclude. I have asked Director Dunnigan to come up and testify. He said he was going to testify, so I asked him to come up after me. And then we'll move on from there. Are there any questions? Seeing none, we'll move on. Welcome; we're ready when you are. [LR128]

BRIAN DUNNIGAN: (Exhibit 1) Thank you. Good morning Chairman Langemeier and committee members. My name is Brian Dunnigan, B-r-i-a-n D-u-n-n-i-g-a-n, and I'm the director of the Department of Natural Resources. I'd like to offer the following statement for your consideration: The department has recently provided Senator Langemeier with background information including a history of water planning in the state, bibliography of past planning studies, and a bibliography of other state planning activities. Under the provisions of Nebraska statute 61-206, the department shall serve as the official agency of the state in connection with water resources development, soil and water conservation, flood prevention, watershed protection, and flood control and shall plan, develop, and promote the implementation of a comprehensive program of resource development, conservation, and utilization for the soil and water resources of this state in cooperation with local, state, federal agencies and organizations. The provisions of statutes 2-1599 through 2-15,106 outline a process for a state water plan and review

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process. The director of the department is to provide guidance and general supervision, assisted by the Game and Parks Commission, the Department of Ag, the Governor's Policy Research Office, the Department of Health and Human Services, the Department of Environmental Quality, the Water Center of the University of Nebraska, and the Conservation and Survey Division of the University of Nebraska. The director may request assistance from any private individual, organization, political subdivision, or agency of the state or federal government. The department produces an annual report and plan of work on the Nebraska state water planning and review process by September 15 each year and submits it to the Governor and the Legislature. That report provides additional detail on the department's planning activities. The committee may wish to refer to its copies of these reports for historical perspective of the state's planning priorities. In the late 1970s and early 1980s there was a major effort undertaken that included all agencies previously mentioned. One result of that effort was the publication of water policy issue studies and recommendations. Several of the recommendations have since been acted on through legislation. Many of the issues discussed remain issues today. Since the end of that effort, the department and other agencies have continued to work together in varying ways on planning activities. The passage of LB962 in 2004 reoriented planning within the department to a large degree. Under the provisions of the Ground Water Management and Protection Act, the department is required to work with local Natural Resources Districts to address surface water-ground water relationship issues in a joint state-local planning framework. The resulting integrated management plans are, of course, specific to water supplies of each river basin and priorities of the local Natural Resources Districts, not statewide plans, and have specific purposes of balancing water uses with supplies and protecting existing users. The department now has an integrated management division to work on the plans and related activities and has made such work a priority. The division currently has a staff of 11 full-time equivalents. The integrated management planning process is extremely important in the context of statewide water planning because it is meant to ensure that overdevelopment of the surface water resources does not occur. In the overappropriated areas in the Platte basin, the IMPs will bring back in line with available

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water supplies. The integrated management plans are also the major method available for the state to use in meeting its obligations under interstate compacts, decrees, and agreements where the impacts of ground water use on stream flow are considered. For example, the IMPs in the Republican basin have been extremely important in maintaining compliance with the Republican River compact. The department has also during the last several years been highly involved in conducting, reviewing, and funding research that will provide better tools for water management while using the best available science to assist in future planning efforts. The department has had a planning division throughout the history of the Natural Resources Commission and the Department of Natural Resources. Currently the Planning and Assistance Division has 6.5 full-time equivalent positions. This division currently is responsible for the statewide stream gaging program, development and coordination of data sets, economic and geologic review of proposed projects that are requesting funding, coordination with other governmental agencies, statewide mapping and geographic information system analysis, and technical assistance to the director and other divisions. In addition, the department's management services division provides the support for the Natural Resources Commission and its duties of allocating available funds for local entities' proposed projects across the state. Provided in your packet is a summary of the current department or Natural Resources Commission funds that are used for projects and planning and research. A separate list is provided that describes currently known possible sources of revenue that can be used for research or planning. We hope this information is useful to you in your study of this issue, and we'll try to provide any additional information you might request for your study. Thank you for the opportunity to appear before you today, and I'd be happy to answer any questions the committee may have. [LR128]

SENATOR LANGEMEIER: Thank you, Director Dunnigan. Are there any questions? Seeing none...oh, Senator Schilz. [LR128]

SENATOR SCHILZ: I guess...thank you, Senator Langemeier. Mr. Dunnigan, thanks for

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being here this morning--another full crowd for the third day in row. As we talk about water planning...when you talk about the water plan--and I know the Legislature gets a copy--can you give us just kind of a thumbnail sketch of what all is included in that as far as when you talk about the planning document itself every year that you submit.

[LR128]

BRIAN DUNNIGAN: Yes. Basically what's included in that document are the activities of the agency that support planning, basically, in all forms. So a major portion of it this year was devoted to the integrated management plans that have been going on across the state. But other pieces of that report would include the data development, the tools that are being developed, the ongoing research activities of the department and its cooperators. And it would give an idea of all the activities that we're involved with.

[LR128]

SENATOR SCHILZ: Right. Right. And then I guess the next question: In this planning process, do you bring...it says here that you have the authority to bring together whoever you need. Does that happen on a regular basis, where you're bringing in different folks and talking about what the future should hold and where we should go?

[LR128]

BRIAN DUNNIGAN: Senator, that hasn't happened in many, many years. It really...probably the end of the 1980s was the last time that that really happened to any great degree. And especially after the passage of LB962, the department really did reorient its planning efforts to focus on integrated management and not so much the statewide planning effort. [LR128]

SENATOR SCHILZ: Right. Sure. Okay. Thank you very much. [LR128]

BRIAN DUNNIGAN: You bet. [LR128]

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SENATOR LANGEMEIER: Senator Carlson. [LR128]

SENATOR CARLSON: Senator Langemeier, thank you. Mr. Dunnigan, in an IMP--and that is determined and voted on by an NRD or several NRDs, and that becomes the plan or the intent is that that becomes a plan--if there's not agreement, would you explain the process that occurs if the department and the NRD or NRDs can't agree on a plan. Explain the process, would you? [LR128]

BRIAN DUNNIGAN: Sure. And that would kind of be the last resort, because I know both entities would work very hard to reach agreement. And in the past we've reached agreement on all of the IMPs. But the process set up in the statute is the, I guess, the formation of the Interrelated Water Review Board. And that board is made up of five individuals--two appointed by the Governor and, if my memory serves me right, three also appointed by the Governor but given...from a list of at least six given to the Governor by the Natural Resources Districts. And that board then would take a look at the plans of each NRD and the department and decide which one to go forward with. [LR128]

SENATOR CARLSON: So those six that are submitted, those are submitted by the NRDs and not by the department. [LR128]

BRIAN DUNNIGAN: That's correct... [LR128]

SENATOR CARLSON: And three of those would be chosen. [LR128]

BRIAN DUNNIGAN: ...at least six, it could be more. [LR128]

SENATOR CARLSON: Okay. [LR128]

BRIAN DUNNIGAN: Yes. [LR128]

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SENATOR CARLSON: But three of those would be chosen, and the other two are appointed by the Governor. [LR128]

BRIAN DUNNIGAN: Yes. [LR128]

SENATOR CARLSON: Okay. Thank you. [LR128]

SENATOR LANGEMEIER: Senator Christensen. [LR128]

SENATOR CHRISTENSEN: Thank you Chairman Loudon (sic). Thank you, Brian. In doing the IMPs, do you go out and determine what the sustainable number of recharge is for each river basin and tributary? [LR128]

BRIAN DUNNIGAN: Not, I think, in the context that you're asking the question, Senator. The sustainability would be something that would be determined through the process. And that would be both determined by the department and the local NRD--but not necessarily a water-in/water-out balance. [LR128]

SENATOR CHRISTENSEN: It...wouldn't that be something important to understand if you're going to understand a rivershed and estate plan or whatever you're doing, wouldn't it be important to know the amount of recharge versus amount going out? [LR128]

BRIAN DUNNIGAN: Well, in the IMP process, we're really looking at the hydrologic connection of surface water and ground water, so that changes that just a little bit. But certainly your point is valid, and that's certainly something that on a planning effort you could certainly do. We're specifically directed under LB962 to look at the hydrologically connected relationship of surface water and ground water. [LR128]

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SENATOR CHRISTENSEN: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Dubas. [LR128]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Dunnigan, for being here this morning. You stated that your focus since 962 has really been on the IMPs. [LR128]

BRIAN DUNNIGAN: Yes. [LR128]

SENATOR DUBAS: When I think about statewide planning, I'm thinking you're looking at the immediate needs as well as the big picture--the long range. Do you think we can address the long-range concerns, planning through the IMP process? [LR128]

BRIAN DUNNIGAN: It does to some extent, because we're looking at that...those IMPs, and we're looking and monitoring those into the future. So it's not just a shortsighted approach in that IMP process. It would be a longer-term approach, and, in fact, the mechanisms are in there to revisit and monitor those throughout time--recognizing, though, that they are just on a basin-by-basin basis. So, although they might not all be tied together, there is relationships between all of the IMPs in a basin. But it probably doesn't have the great extent of long-range planning that you might be referring to. [LR128]

SENATOR DUBAS: Is there a way that we can tie those IMPs together so we can look at it in a bigger-picture way? [LR128]

BRIAN DUNNIGAN: Oh, I think the framework is probably there. And then probably over the top of that could--similar to what might occur in the overappropriated basins for the basinwide plan might be something to consider. [LR128]

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SENATOR DUBAS: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Schilz. [LR128]

SENATOR SCHILZ: Thank you, Senator Langemeier. Mr. Dunnigan, in your...just a little bit ago, in your earlier statement, you said that you would get sustainability through the process. Can you explain that a little bit? [LR128]

BRIAN DUNNIGAN: Yes. A definition of sustainability. And it might be different from NRD to NRD, and we might be talking about in one particular NRD what sustainability means--it may have some economic considerations. In another NRD it may have compact-compliance implications. In another one it may be a water-balance sustainability. But that's really something that has to be discussed among the stakeholders, the department, and the specific NRDs to define that. And the reason I mention that is because that's one of the things that really, if you're talking about it, you probably have an idea of what you're talking about, and somebody else might not have that same idea. So you really have to define what that is. [LR128]

SENATOR SCHILZ: Right. And the reason I asked is because, you know, throughout the whole negotiations with the Water Policy Task Force, that question of sustainability was always hanging out there, and no one was able to...or no one was able to come to a conclusion on what that definition was, so I was interested... [LR128]

BRIAN DUNNIGAN: Yes. [LR128]

SENATOR SCHILZ: ...in what you had to say. Thank you. [LR128]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much, Director Dunnigan. [LR128]

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BRIAN DUNNIGAN: Thank you very much. [LR128]

SENATOR LANGEMEIER: One more step that I didn't talk about that...many of you that I can see across the crowd have come and testified before the Legislature. And at the Legislature we testify in an order; here we do not. We don't take proponents, opponents, and neutral testimony; we just take testimony. So feel free to come on up and get ready, and those that are willing to testify, come on up. Come on up, Mr. Bishop. They're not running enough to knock you down to get there. Welcome. [LR128]

RON BISHOP: Thank you, Senator, and welcome to the central part of the state, all of you. My name is Ron Bishop, spelled B-i-s-h-o-p, and I'm here today to visit a little bit about state water planning, because it's not a new topic for us. With me here, somewhere, is Tom Knutson, who is the general manager of the Farwell Irrigation Project up in Farwell. In August of 2008, ground water and surface water interests began meeting across the state to develop solutions to Nebraska water problems rather than continuing to oppose each other at legislative hearings. And we've been before you in opposite positions a number of times. Leaders from both groups have met as a coalition on a regular basis since back in August of '08, attempting to work on solutions to the issues that face all of us in the water planning business. Our goal, once we have solutions, is to come back to the Legislature and the Governor with ideas that will provide a springboard for wise water resource planning in the state. And I think Dan Smith appeared before the committee about a year ago at one of the hearings. In regard to solutions, our past difference on the subject of qualifications for the director of Natural Resources has been discussed at length, and we've appeared in opposite positions before the committee discussing the qualifications of the director of Natural Resources. We recognize that an engineer is needed to make those difficult technical decisions that are needed in regard to surface water rights and needs. However, the group also recognizes the state is, we think, lacking in regard to long-term needs for water planning in the state. In that regard, the group wishes to inform you that we as a group do recognize the importance of that endeavor and have agreed to make known to

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the Governor that we think a director needs to be appointed to manage water planning in the state. We recognize it means dollars but also recognize that not having comprehensive water planning has cost the state dollars as well. Today we have a Natural Resources Commission of 16 people. Three are appointed by the Governor, and the rest are appointed by the Natural Resources Districts. Decisions for funding from the Natural Resources Development Fund for projects are made by that commission. Funds from the Legislature to this fund are normally in the \$4 million range. It would be best to fund the Natural Resources Development Fund with more dollars, but in that process we feel we need interaction from legislators from the Appropriations Committee and this committee with the commission to allow a better understanding of the funding needs for the state. Therefore we recommend that three legislators be involved with the commission in that process. All of this may sound nice and easy except for the big issue of funding. Where do dollars come from? We're working on that issue, and we've made progress, but we need more time to come up with solutions. While we share a concern in that regard, we also know that local entities suing other local entities and the state being sued by other states is not a cheap answer. Having said that, the Water Policy Task Force had a committee that worked tirelessly on the matter of funding, but we did not resolve that issue and develop a final method to accomplish the goal. We're working with some of those committee members now, and we know it will take a concerted effort on a statewide basis to find a balance to assist the state in its funding needs. Our message to you is that we want to continue our effort as a coalition, and we want to come back to this committee and the Governor with what we feel will be an acceptable solution to the funding issue. This in turn will allow us to meet the goal of a comprehensive state water planning process. I want to thank you, Mr. Chairman and members of the committee. We'd be more than happy to try to answer some questions. And as a outline of a work product that we have been working on, I do have an outline of what we think a water planning agency should look like and what the responsibilities would be. And at this point, we would recommend that we take the planning section and make it a separate section from the water administration, the water department. And so we do have a work product here that is a draft of what we

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would propose that looking like. And I also have brought along a copy of a application that we submitted some time ago--a lot of the water interests across the state submitted to the Nebraska Environmental Trust for a grant to start a planning process. And in that it outlines a process for developing a state water plan that covers the projects and some of the programs and activities that we think should be an important part of the state water plan. So I'd like to leave you with copies of that. It may be seed for thought for you as you go through the process. And with that, I'll stop, and we'll try to answer any questions if there are any. [LR128]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Bishop? Senator Dubas. [LR128]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Bishop. I know you stated this at the beginning of your testimony, but just how many of you get together? And do you get together on a regular basis, or is this a little less-formal meetings? [LR128]

RON BISHOP: It's a little less formal, but we try to get together regularly, approximately once a month. The group is composed of four individuals from surface water projects. Specifically, it's Tom Knutson with Farwell; it's Don Kraus from Central Nebraska Public Power, Brian Barels with NPPD, and Dennis Strauch from out west in the Panhandle. And then representing Natural Resources Districts, there's myself, Butch Koehlmoos from up at Ord, Dan Smith from down in the Republican, and Kent Miller from the Tri-Basin NRD. And just recently we have added to the group, trying to get some input from the east, a couple of the NRD managers from the east: John Miyoshi out of Wahoo and Glenn Johnson out of Lincoln. So that's the group that has been meeting, and we hope to continue to meet in order to give some input and some suggestions to the committee. [LR128]

SENATOR DUBAS: Great. I applaud your efforts. [LR128]

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RON BISHOP: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Hansen, do you have a question? [LR128]

SENATOR HANSEN: Yes. Thank you, Chairman Langemeier. Ron, it's good to have you here this morning. [LR128]

RON BISHOP: Thank you. [LR128]

SENATOR HANSEN: As of October 1, I can give you 93 million reasons why we can't form another part of the bureaucracy that we're already...that we have in Lincoln. So we're going to ask you again to do more with less, and, hopefully, you can get together from the incomes of the various NRDs and the public power entities and come up with a plan. I would say this is not a good year to come to the Appropriations Committee and say: We need money for another planning agency. I understand the reason for it, but I just want to know if you can do more with less. [LR128]

RON BISHOP: We need to do the best job that we can with what is available, Senator. We think state water planning is important enough that without doing a good job of it it's going to end up costing us money. And we think that there's some staff with the current Department of Natural Resources that would blend right in there. And so it's not like we're suggesting starting a whole new department with a whole new staff. It would be splitting out part of the current Department of Natural Resources--that planning part and some of the other items--and having a separate responsibility and a separate section. [LR128]

SENATOR HANSEN: Changing the priorities, in other words. [LR128]

RON BISHOP: Yes. [LR128]

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SENATOR HANSEN: And I think we're going to have to do that in all state agencies--change the priorities--because there's not going to be money there for a couple of years at the minimum, so I appreciate that. [LR128]

RON BISHOP: Let me tell you, one of the problems that we run into in the state with a director that is in charge not only of the management and administration of surface water rights, but also there's a need for a proponent for water projects and a cosponsor on some of those water projects to solve our water problems. It's very difficult for an individual to sit there as an impartial judge in deciding whether or not to issue a water right for a project or to administer that water right when on the other side he's a proponent of that project because it solves some of the state's problems. And so we see that as a conflict, if you will, in wearing two hats on one individual. And so we think coordination would be very important. But we think it would serve Nebraska better if it was two different functions carried out by two different individuals. And we recognize there would be some money, some additional money. We can't just split the department and take care of it, because there's more needs to be done, and so there would be some additional funding required. But we also recognize the situation that Nebraska is in. [LR128]

SENATOR HANSEN: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Carlson. [LR128]

SENATOR CARLSON: Thank you, Senator Langemeier. Mr. Bishop, the idea of a director at the state level certainly would be important in bringing various groups together with various interests and concerns and trying to move forward with a plan that would be somehow acceptable to everyone. In surface and ground water--and this would be your opinion--in your opinion, what are the things that ground water and surface water interests are rather easily agreed upon, and what are those things that

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are difficult to find agreement, common ground? [LR128]

RON BISHOP: Well, there's a number of things. You always hear, and you always read in the paper about some of the things that we don't agree on. And they seem to catch the headlines and catch the interest of the news media. But, quite honestly, there's an awful lot of things that both surface water and ground water interests agree on. We both recognize that irrigation and irrigated agriculture and water is the lifeblood of the state of Nebraska, especially west of Lincoln in Nebraska, and we recognize that it's very important. And there are many, many examples where surface water projects provide ground water recharge that is important to the ground water irrigators. A good example is just west of us here, in Dawson County. Within our Natural Resources District we have seven irrigation districts. And those irrigation districts bring water out of the Platte River into the area and provide not only irrigation water for about half the acres that are irrigated out there, they also provide ground water recharge that helps us on groundwater supply for those that rely on ground water for irrigation. But it also is a great benefit to us for ground water quality. Where we've got surface water coming in and recharging every year, we don't have the ground water nitrate problems that we do in the area outside of where those surface water projects are being carried out, even though they're raising the same crops and applying nitrogen to the same types of soils. It does make a difference in that it maintains a steady water table elevation and doesn't allow pockets of ground water declines to develop that tends to concentrate those nitrates. As they do get--and they do get in the ground water--as...they move, tend to move on, though, if that ground water level is maintained, and so it makes quite a difference. So it's a tremendous benefit to us in the area. And we and NPPD and the local surface water irrigators all agree on the importance of that to each other. And the irrigators in Dawson County recognize the importance of having both--a good ground water supply but being maintained by surface water projects. [LR128]

SENATOR CARLSON: Hey, that's good information; that's understandable. Now, what, in your opinion, is your main difference? [LR128]

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RON BISHOP: Our main...well, where problems have developed is, when the laws were set up in the state of Nebraska, surface water was governed under "first in time is first in right," and ground water has always been "relative rights." And now that we're trying to address the interrelationship between the two, you know, one group would like to see the other group change to their system. And that doesn't necessarily work, because we're too far along. Had we started back in 1880 setting up the same system for both ground water and surface water, it would have been a different issue. But we're past that point now; we can't go back. And so we just have to work out our differences and try to resolve the issue. And we'll get there; we'll get there. I think this group that I was talking about--Tom here started that group, and he reached out to some of the NRDs and some of the ground water folks, and I think we'll see more and more of that as time goes on. [LR128]

SENATOR HANSEN: Okay. Thank you. [LR128]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much, Mr. Bishop. [LR128]

RON BISHOP: Thank you. I do have some things to leave for the committee. [LR128]

SENATOR LANGEMEIER: If you'll leave them with Barb, we appreciate it. [LR128]

RON BISHOP: Great. Thank you. [LR128]

SENATOR LANGEMEIER: Come on up. For those of you standing, there are some seats over in this area towards the front. There's one up front here. Mr. Thieman, welcome. [LR128]

TED THIEMAN: Thank you. [LR128]

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SENATOR LANGEMEIER: If you lean forward, I think they'll be able to hear you.
[LR128]

TED THIEMAN: Good morning. My name is Ted Thieman. I'm the president of the Nebraska Environmental Action Coalition. The spelling of my name is Ted, T-e-d, Thieman, T-h-i-e-m-a-n. My address is 405 East Leona Avenue, Petersburg, Nebraska. I'm here testifying with...I'm reading testimony which is a product of the Nebraska Environmental Action Coalition--a draft, and this has been approved by the board of directors of the Nebraska Environmental Action Coalition. I see my green light is on already. This may take slightly over five minutes. If it does, I do have a person here to read the rest of it; or if you want to indulge me, I'll just continue the reading. (Laughter)
[LR128]

SENATOR LANGEMEIER: I'll see how it goes. [LR128]

TED THIEMAN: Okay. Okay. That's fine. Senators and members of the Natural Resources Committee, I thank you for this opportunity to testify in regard to the governance and management of Nebraska's publicly owned surface and ground water resource. If I may, I'd appreciate your placing this testimony into both records for the hearings of today, of the LB128 (sic) and LR181. Governor Heineman and his staff are really...are to be commended for recognizing that intervention and immediate action are necessary relative to water issues in NRDs associated with the Republican River. From the 1972 outset, placing authority for ground water management in the hands of regional Natural Resources Districts may have been a mistake. Thirty years later, in 2002, the Governor's Water Policy Task Force finally, although reluctantly, admitted to the conjunctive relationship between surface waters and the once abundant ground waters of native aquifers. Far before that time, the local NRD concept was probably obsolete in design and purpose. Whether it's a river or stream or pond, natural sandhill lake, reservoir, or underground aquifer, really Nebraska's waters are one. The Nebraska

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Environmental Action Coalition believes there never was a legitimate reason to divide management responsibility for the resource between Nebraska's Department of Natural Resources and 23 regional Natural Resources Districts across the state. Republican River NRD boards of directors past and present have placed all Nebraskans in legal and financial jeopardy through manipulative, self-indulgent, self-serving single-interest management of their ground water resource--or I should maybe properly say our ground water resource. Nebraskans may owe them thanks, however, for waking us up to the many inequities and dangers inherent in Nebraska's NRD water management systems. We have learned that questionable management techniques and board decisions too often favor a select few, usually irrigators, with little regard for any other interests within the district who may have equally legitimate claims on local water resources. Problems of water quantity and quality experienced by the cities of Sidney and McCook are just two examples of inequity defining a flawed water management system. Many if not most NRD board seats in the western three-fourths of the 23 districts are held by irrigators and/or others with vested financial interests in agricultural irrigation. It is to be expected, then, that decisions, policies, and procedures proposed and adopted will most frequently favor that single-interest select group. Too often others equally dependent on water for business, commercial, recreational, and other interests receive little consideration. Legal agreements, pacts, and contracts with water users outside the district are dealt with as a mere inconvenience, disregarded, ignored, or met with tongue-in-cheek proposals having little or no relationship to the problem. Drought cycles, water conservation tillage, vegetation, and so forth may all result in water consumption or savings. Some NRDs are currently engaged in costly projects to eradicate nearly all trees near streambeds. Regardless of accusations and their efforts to shift the blame, the overwhelming reason for depletion of aquifers and diminished flow in conjunctive streams is the ill-advised overappropriation decisions by NRDs' board of directors. Another flaw in the NRD system is that a small group of board members elected locally, in effect, has authority to obligate the entire state legally and financially. We have learned the hard way that the entire state is responsible for NRD board decisions involving policies and practices in violation of established law. If all

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Nebraskans are to be held accountable for NRD water policy decisions, all Nebraskans should be entitled the right to choose those delegates that are so entrusted. Such is not the case when NRD boards are elected locally. In an era of unpredictable, possibly radical, climate change, it seems reasonable that Nebraska's farm interests adopt measures to ensure that agricultural production is maintained and capable of meeting whatever unforeseen needs may arise. The standard of true sustainability must be of prime concern. It's puzzling, therefore, to note that all 23 Nebraska NRDs endorse the 10/50 and the 28/40 formulas of determining fully appropriated and overappropriated status within their respective districts. The overappropriated designation of 28/40 is reached when a conjunctive stream is subject to a stream-flow depletion of 28 percent over a period of 40 years due to adjacent ground water extraction. Under the formula, an area is considered fully appropriated when adjacent stream flow is diminished by no more than 10 percent over a 50-year period. Working under this formula, NRDs are making the determination that it is acceptable for an in-stream flow to be reduced to zero within a 500-year period. But more alarming is the 28/40 designation. The NRDs suggest that corrective steps be taken when in-stream flows are subject to 28 percent depletion in a 40-year period. Under 28/40, a flowing river could be reduced to a bed of sand within 150 years. Such a formula denies any concern for a sustainable system of rivers, streams, and surface waters in any part of the state. This is sustainable? I ask. Or is this acceptable? It's encouraging that only one major step is necessary to correct Nebraska's water management dilemma. We must finally admit to the foolishness of allowing the fox to guard the henhouse. NRD governance must be changed significantly so the entire state is not subject to a system whereby self-interests can jeopardize the viability of our precious and finite publicly owned water resources. Is there a solution? Well, we believe that most of the 23 NRD offices presently employ well-trained, competent staff. Under authority given the Nebraska Department of Natural Resources, each district office could continue in the capacity of water management within the district while all 23 offices would coordinate data in a cooperative, rather than a competitive, atmosphere. All districts would then be free to work toward reasonable methods of fair, equitable, and sustainable water distribution throughout the entire state

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and in the best interest of all Nebraskans. Thank you. [LR128]

SENATOR LANGEMEIER: Very good. And we...as your testimony stated, we'll put that in the record for LR128 and LR181. [LR128]

TED THIEMAN: Thank you, Senator. [LR128]

SENATOR LANGEMEIER: Okay. Are there any questions for Mr. Thieman? Senator Christensen. [LR128]

SENATOR CHRISTENSEN: Thank you, Chairman. Do you live in a district where NRDs elect people? [LR128]

TED THIEMAN: Of course. I think we all...Lower Loup...yes, we...I do. [LR128]

SENATOR CHRISTENSEN: Have you run for that office? [LR128]

TED THIEMAN: No. [LR128]

SENATOR CHRISTENSEN: I guess I struggle a little bit when people pick on local control and yet aren't willing to run for the office. Why don't you run for that office? [LR128]

TED THIEMAN: Well, I...that's interesting. I didn't run for the office because I made a mistake in not knowing that being an incumbent of a public power district, I had to file early. I thought I would have to be an incumbent of the NRD. So when I showed up to do the filing, they told me I couldn't do it, I was too late. [LR128]

SENATOR CHRISTENSEN: Well, you know, I've been... [LR128]

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TED THIEMAN: So I am willing, but if you can get past that for me, I'll be glad to serve.
[LR128]

SENATOR CHRISTENSEN: But, you know, I guess what I'm looking at is a...I think people need to take control of their own destiny, you know. I've heard people say their NRDs are self-serving, but there's a lot of people that live in areas of that NRD that could run for that office. It's not closed to irrigators; it's not closed to anybody. Anybody can file that's in that NRD district, so maybe you need to recruit people to run if you don't feel like it's representing your view. Or run yourself, because I'm a strong proponent of local control, because other than our national defense, I don't think there's anything government can run better than local people. So that's my opinion. Thank you.
[LR128]

TED THIEMAN: Well, thank you. I might respond. Local control is fine as long as it is involved with the local issues. But in this case, the issues tend to spread across the state. So, you know, that is not necessarily always the best way to be represented.
[LR128]

SENATOR LANGEMEIER: Senator Schilz. [LR128]

SENATOR SCHILZ: Thank you, Senator Langemeier. Mr. Thieman, thank you for coming in this morning. Do you, in your opinion, do you have a definition for sustainability? [LR128]

TED THIEMAN: Well, there's always the long-term versus short-term issues, I agree. But sustainability, you know, in water at least ought to be something that would be consistent with the recharge. Although even then the water running out of the state is our responsibility to keep running out of the state, because, you know, we're fighting with Kansas because we don't let enough water run into Kansas. At the same time, we're fighting with Colorado and Wyoming because they aren't letting enough water run

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into Nebraska. [LR128]

SENATOR SCHILZ: Right. [LR128]

TED THIEMAN: So, so, you know, sustainability is something to me that can last, you know, for generations to come and it isn't obviously depleting a resource that's going to jeopardize or threaten the future generations. [LR128]

SENATOR SCHILZ: Sure. Do you think there are ways to get to sustainability by working with folks and working with the NRDs rather than purely regulatory and shutting people off? [LR128]

TED THIEMAN: Well, if you allow local--too much local control, probably no. [LR128]

SENATOR SCHILZ: Okay. Do you think the state could better handle that on a...from east to west, north to south? [LR128]

TED THIEMAN: The state is not going to keep everybody happy. But if the state looks at it from a statewide perspective... [LR128]

SENATOR SCHILZ: Obviously, sir, the NRDs haven't kept everybody happy either. [LR128]

TED THIEMAN: Right. That's correct. [LR128]

SENATOR SCHILZ: Okay. [LR128]

TED THIEMAN: But I'm not trying to imply... [LR128]

SENATOR SCHILZ: That's okay. [LR128]

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TED THIEMAN: ...that it would make everybody happy. [LR128]

SENATOR SCHILZ: Right. [LR128]

TED THIEMAN: But I am saying that they should, properly directed, they should be able to look at the issue on at least a statewide basis and then a regional basis. [LR128]

SENATOR SCHILZ: Okay. And then do you believe, too, that there are different areas in the state that have different issues and need to look at things on a little different level than other areas? [LR128]

TED THIEMAN: I certainly do; they have different issues--although we do believe that the waters of Nebraska are one. [LR128]

SENATOR SCHILZ: Sure. Well, they may be one, but they all react differently to different situations. [LR128]

TED THIEMAN: If they're one, they react interconnectedly. [LR128]

SENATOR SCHILZ: Right. And so in a place where you get 12 inches of rain, the water and the geology is different than a place where you get 30 inches of rain? Do you think that that can all be taken care of with one big-box solution? [LR128]

TED THIEMAN: Probably not. But there's no water we can't irrigate. And if...it has to be managed in a holistic fashion. [LR128]

SENATOR SCHILZ: I do not disagree that there has to be water to irrigate. That's for sure. And I hope that you agree, too, that shutting people off is not necessarily the best course to take to coming into sustainability. [LR128]

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TED THIEMAN: I believe sustainability requires doing what must be done. [LR128]

SENATOR SCHILZ: Right. And so if you could find ways to find excess water in times and find some way to store that water in the aquifer and then use that for irrigation later on, would that be another tool that could be used to come to sustainability? [LR128]

TED THIEMAN: Possibly, but probably not, because it's all interconnected. [LR128]

SENATOR SCHILZ: Okay. So it's not... [LR128]

TED THIEMAN: You're just taking from one place and...you're going to rob Peter to pay Paul. [LR128]

SENATOR SCHILZ: There's no timing issues that are going on there to where it really doesn't...to where you can take off some of those tops? [LR128]

TED THIEMAN: Hold it back--according to how you recharge the underground, I'm going to affect the surface. [LR128]

SENATOR SCHILZ: Okay. In all instances? [LR128]

TED THIEMAN: Well, generally speaking. No, not in all instances. [LR128]

SENATOR SCHILZ: But not in all instances. Okay. Thank you very much. [LR128]

TED THIEMAN: There are very few absolutes in this world. [LR128]

SENATOR SCHILZ: Okay. I appreciate that. Thank you. [LR128]

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SENATOR LANGEMEIER: Senator Carlson. [LR128]

SENATOR CARLSON: Thank you, Senator Langemeier. Mr. Thieman, in your statement here: Republican River NRD boards of directors past and present have placed all Nebraskans in legal and financial jeopardy through manipulative, self-indulgent, self-serving single-interest management of their area ground water resource. Would you expand on that a little bit? [LR128]

TED THIEMAN: Well, it's probably self-evident that there's a certain amount of self-serving going on when it comes to irrigation in the Republican River valley--and the fact that wells were drilled near the river that affected the flow of the river. I mean, I guess that's pretty well established. I'm not a geologist or an expert in that. What I know is what I read. But decisions were made along the way that were self-serving that caused the problem to turn out to be a state problem. [LR128]

SENATOR CARLSON: Do you believe the concept that punishment should fit the crime? [LR128]

TED THIEMAN: In general terms? Well, there ought to be some relationship, yes. [LR128]

SENATOR CARLSON: Should there be a crime before there's punishment? [LR128]

TED THIEMAN: Well, I don't know...I don't want to answer...I guess I'm trying to anticipate where you're leading me. But I don't know that I was punishing anybody for any crime. We're trying to fix this going forward. [LR128]

SENATOR CARLSON: Well, if somebody commits a crime, there should be just punishment. I think we both probably agree on that. [LR128]

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TED THIEMAN: Yeah, we'd first have to agree there was a crime. [LR128]

SENATOR CARLSON: Your wording is in such a way that I think you're indicating that the Republican River NRD boards are criminals because they placed everybody in legal and financial jeopardy. Now, I'm putting words in your mouth, but has there been a crime committed in the Republican basin? [LR128]

TED THIEMAN: I am not qualified to call anything a crime, in that regard. [LR128]

SENATOR CARLSON: Do you think that any of these wells were drilled in such a way that the law was broken? [LR128]

TED THIEMAN: No, I certainly don't. [LR128]

SENATOR CARLSON: Okay. We're in agreement on that. [LR128]

TED THIEMAN: That's correct. [LR128]

SENATOR CARLSON: You made the statement that in order to reach sustainability, you have to do what must be done. Do you think that it's okay for somebody in a centralized position--because really you're leaning toward taking away local decision making and putting it at a level so that doing what must be done can be done, and that means a decision made by somebody that's in a position above any local interests. So if something must be done, do you think it is okay to shut the door on somebody's business with no compensation if they haven't committed a crime? [LR128]

TED THIEMAN: That certainly isn't...you haven't given me anywhere near enough information to make a judgment like that. [LR128]

SENATOR CARLSON: Well, wouldn't you say that shutting off a well and not allowing

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somebody to irrigate is punishment and is a severe decision? [LR128]

TED THIEMAN: I would say someone making a decision that there isn't enough water to go around, which would result in shutting off a well, is an okay thing to do. [LR128]

SENATOR CARLSON: So it's okay to shut that off with no compensation. [LR128]

TED THIEMAN: Of course, I don't see water rights as being a right to water per se. It's a right to pump water--just to pump and distribute water. But if the water isn't there, that right doesn't exist, doesn't extend to the right of...to water itself. [LR128]

SENATOR CARLSON: And somebody has to make the decision that the water isn't there. And if they can turn on the pump and there's water, apparently there's water there. So all I'm getting at is that these decision that are severe in terms of taking the rights away from people to earn a living and removing their lifeblood I think we'll both agree is a serious decision. [LR128]

TED THIEMAN: It would be a serious decision; I agree. [LR128]

SENATOR CARLSON: And I think that we've got to be very, very careful about how we make those decisions. You do state here that we believe most of the 23 offices presently employ well-trained, competent staff. I would agree with you. And...but I think our system that we allow elections and we allow people to run for offices and we allow them to be elected to be in a position to make decisions, we better be very careful about coming to a conclusion: Well, that really doesn't work anymore, so let's put this decision making in the hands of a single individual or very few people, and let's do away with the democratic process. And I don't agree with that at all. I appreciate your honesty and your testimony, and certainly one of the things that's so important about our system of having hearings and having people come to testify is that we don't have to agree, and we probably won't agree. You have every right to express your opinion, and I'm taking

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my right to respond to your opinion. Thank you. [LR128]

TED THIEMAN: Thank you. It all relates back to holistic thinking, doesn't it, and long-term? [LR128]

SENATOR LANGEMEIER: Senator Christensen. [LR128]

SENATOR CHRISTENSEN: Thank you. Your statement here: Some NRDs are currently engaged in costly projects to eradicate trees--all trees near streambeds. I'd saved that for Senator Carlson; he passed on it. You know, we have seen where we're moving trees--and I don't care if we're in the Platte, Republican, Nine-Mile--we're putting water back in that stream strictly by removing trees that are in the bed, that we don't want, thinning them out along the riverbanks. We have found increased amount of wildlife; we've found increased grass. I haven't found any negatives to it. Would you explain why you think that's so bad to eradicate trees. And I don't even know anywhere we've taken all trees, unless it was in the streambed. So could you explain that statement right there--top of the second page, third line down. [LR128]

TED THIEMAN: Yes. I don't believe the statement meant that it was all that bad to, you know, control trees. It was just a statement that it's a costly project that is related to overconsumption in other areas of the whole system, namely, irrigation. [LR128]

SENATOR CHRISTENSEN: Okay. I guess I...my opinion is, in going out and looking at riversheds, and I'm going to pick on myself. I used to go out and disc the ditches shut, so my dad could drill wheat. And we had a gully 4 or 5 foot deep, 4 or 5 foot wide running down through a pasture to a dam. In 1983 we went to spraying the stubble and leaving it there, plant the second crop. In '95 we went to wheat, corn, wheat, corn; we never worked the ground. We have not touched that ditch in that pasture. We can drive out in that pasture; we can drive through anywhere where that ditch was. We never have to work that ditch shut to drill wheat. We just go drilling. I have taken my wheat

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yields from the 30s to the 60s. I'm producing a corn crop in the 80s, and a year like this could be in the 140s. And I did that by holding the water on the land and utilizing the water instead of it running off. And I get a little upset when people think irrigators have stolen all the water. I'm a drylander; I'll guarantee you I've stolen a lot of water out of that stream. I've got a pasture that is 300 acres I have nine dams in. I've stolen a lot of water out of that stream. All I'm telling you is there's a lot of things stealing water from that stream, not just the wells the NRDs manage. NRDs are responsible to get water back into that stream, because I have kept the water on my land and utilized it and because I let trees grow up along the river. And they...I call them an irrigation well; I call them trees water pumps. You can look out there how big that canopy of that tree is, coming out of the 3-4 foot area. You took that tree out, the area of consumptive use going out of there, would go back to 3-4 foot, instead of how many square feet is in the canopy of that tree out there. 100? 200? And I encouraged people yesterday in the hearing: Go back and look to the Bureau of Reclamation Web site when these dams were put in and see how many trees were there. We used to have prairie fires that cleaned up things. We used to have animals running all over. This is a very complex problem. Are wells part of the problem? You bet. Are trees that's growing and been added? Out here trees are beautiful. But it's like I said yesterday: If there's a corn plant in my beanfield, it's a weed. If there's a tree in my riverbed, it's a weed. And I think you've got to look at everything. And that's why this is not an easy solution. That's why it's hard to get the surface and ground water people together. And I have almost as much surface as ground water myself. I'm just torn. There's times I get reduced surface supplies. I'm torn. But I know it's just not a single-focus problem. And that's why there's not been a decision made in the three years I've been in the Legislature on how to solve this. And I think that's why there's not been an easy plan--is there's a lot of things here. And NRD members can't...boards can't control everything. And if we put it up to a single water czar, you're going to have the problem it's easy to shut off irrigation. We had a proposal here not very long ago that we were just going to shut off the quick-response and surface guys to meet compliance. To me, that's not an option. I will have to fight that. You know, it's a very difficult situation. I hope you'll think about what I'm saying. I'm

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not saying wells haven't caused problems. But I know terraces have caused problems; I know no-till has caused problems; I know the way I farm has reduced water running; and I know my dams cause problems, you know. I'll point the finger at myself. There's a reason, and I am a reason why water don't flow in the Republican like it used to. You know, I'm just picking on myself, but there is a lot of factors here, and I'd just like to spread the blame a little bit. Thank you. [LR128]

SENATOR LANGEMEIER: Senator Dubas has a question. [LR128]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Ted, for being here this morning. I would just like you to clarify--in the last paragraph you talk about the NRDs: They have good staff, people who really have understanding and knowledge. So are you...is your thought that we really do need to keep those offices and those staff employees, we just don't need the elected boards in place--that we would use these offices kind of as oversight or management of the local issues? I guess I'd just like a little more clarification on what you would see the NRDs' role. [LR128]

TED THIEMAN: Well, essentially, the NRD boards create local policy. The NRD staff are data-gathering experts, and they do a really good job at that. But it all relates back to the--really the crux of the matter for us is the fact that locally elected boards serve local issues, when we're talking about one statewide resource that's all interconnected. So that's why in this case--and I'm all for local control; don't get me wrong; I don't believe the group I represent has any qualms at all about saying they think local control in Nebraska, the way it runs, is good. But there are always those outliers where it doesn't necessarily work that well. You can't have one player who has the opportunity to upset the apple cart for all the other 22 and just leave that go. You somehow need, you know--for, as bad as it sounds--some kind of centralized decision-making, policy-setting force. When Omaha and Lincoln wake up to what's going on, we probably will have some change. I mean, you know, we contaminate and use up their water too. In Nebraska, fortunately, water is a public resource. We tend to lose track of that. We tend

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to think the ground, the water under our feet is ours. It is Nebraska's. [LR128]

SENATOR DUBAS: Thank you. [LR128]

SENATOR LANGEMEIER: Seeing no other questions, I could ask a jillion, but we have a lot of people who want to testify... [LR128]

TED THIEMAN: All right. [LR128]

SENATOR LANGEMEIER: ...so we will keep rolling. So thank you very much for your testimony. We appreciate it. [LR128]

TED THIEMAN: Okay. [LR128]

SENATOR LANGEMEIER: Thank you. [LR128]

TED THIEMAN: Thank you. [LR128]

SENATOR LANGEMEIER: Further testifiers. Are we done already? Come on up, or I'll quit and we'll move on to the next one. And we are, hopefully, still on LR128. We kind of jumped to 181 there, but we need to be on LR128. Welcome. [LR128]

GARY WESTPHAL: Senator Langemeier and members of the committee, my name is Gary Westphal, G-a-r-y W-e-s-t-p-h-a-l. I'm the president of the Nebraska Water Resources Association. It's made up of a very diverse group of folks around the state of Nebraska, all very interested in water. No doubt that agriculture is the key to the success of Nebraska, and water is the key to that success. And so we feel it's really important to be engaged deeply in shaping a water plan that's good for the whole state. NWRA, again, is made up of municipalities, recreation, environmental, power, ag, surface water and ground water folks. We'd like to be deeply involved in helping solve

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this issue. We recommend that we consider using very good science--and the university has a long history of providing data, information about water, the relationship between ground water and surface water--and feel very strongly that the university should be deeply involved in helping solve this issue. Like the testimony previous to me, Mr. Bishop mentioned splitting, and we also feel that you should give consideration to splitting what is now the DNR, having a state water planning and advocacy group and then the separate one that deals with administration and regulatory. I respect what I heard my friend Senator Hansen say about maybe adding cost to it, and that is an issue. A lot of us in the state feel that funding a state water plan will cost more than what...how it's been funded recently. And we think not only funding it but an ongoing funding of...may cost--and I'm making a W-A-G, but it could be \$1 million a year to fund something that is so enormous. And because the state water hydrology is different throughout Nebraska, it's just a very complex issue. So I just wanted to support the direction you folks are going. We like to be involved and be helpful and would answer any questions you have. [LR128]

SENATOR LANGEMEIER: Thank you, Mr. Westphal. Are there any questions? No questions. Thank you very much. [LR128]

GARY WESTPHAL: Thank you very much. [LR128]

SENATOR LANGEMEIER: You did a great job. Further testimony on LR128. Welcome. [LR128]

JOHN MIYOSHI: (Exhibit 6) Thank you. Senator Langemeier and members of the Natural Resources Committee, my name is John Miyoshi, J-o-h-n M-i-y-o-s-h-i. I'm the general manager of the Lower Platte North Natural Resources District, located in Wahoo. And today my testimony is in support of a state water plan. In recent years Nebraska has caught up with or even passed some of the other Western states dealing with water disputes. At our borders, within our borders, above ground, below ground,

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quality problems, quantity problems, people, crops, economics, fish. Our current method to handle water problems is to deal with them as they arise. Some of these problems have simple, sensible solutions. But many turn into knock-down, drag-out problems, and decisions are made in crisis mode, which leaves no winners. Just as the state requires NRDs to have a master plan and long-range plan, so should Nebraska have a state water plan. This simple statement has led to much discussion since LR128 was passed. As you delve into the topic, there seems to be more questions than answers. Question 1: Who authors and owns a plan? Is it going to be the Governor? The legislative Natural Resources Committee? The Department of Natural Resources? Water Policy Task Force? An appointed committee? Or a combination of the above? What is the goal of the water plan? How much detail is needed in the plan? Who will pay for the plan? And how often is the plan updated? All of those questions need to be answered. Some suggested chapters for the plan: We need basin goals; the economic impacts, if no plan is prepared, on municipal needs, industrial opportunities, agriculture needs, and wildlife needs. We need to identify conflicts and potential resolutions, in-stream flows. We need to maximize benefits of available water. Need to include the NRD integrated management plans. We need to identify potential projects across the state that impact water, both state-sponsored and non-state-sponsored. We need to protect our borders and comply with the state compacts and decrees. We need to identify the potential partners to assist with the plan implementation. We need to address surface and ground water conflicts, threatened and endangered species. And we need to suggest tools that regulators need to better regulate the available water. The best decisions are never made in crisis mode. Now more than ever, a solid plan is needed to direct our limited water resources into the future. Perhaps Mark Twain said it best: Few things are harder to put up with than the annoyance of a good example. The time is right for the state to set a good example. [LR128]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Miyoshi?
Senator Hansen. [LR128]

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SENATOR HANSEN: Thank you, Chairman Langemeier. John, thanks for being here today. In your list of...that you have on your first page, especially Question 1--who owns the plan? The groups that you list here other than "appointed committee" are all political. Would you accept the idea that this plan belongs to the people of the state of Nebraska, just like the water belongs to the people of the state, and take politics out of it, to some extent? [LR128]

JOHN MIYOSHI: That would be ideal. You'd never take the politics out. But just like the NRDs--when we do an integrated management plan--are required to have public hearings, have the public involved in setting up those plans, it would be ideal, again, to have involvement of the people in that plan. [LR128]

SENATOR HANSEN: Thank you. [LR128]

SENATOR LANGEMEIER: Other questions? Senator Carlson. [LR128]

SENATOR CARLSON: Thank you, Senator Langemeier; and, John, thank you for being here. The first sentence in your last paragraph here, "The best decisions are never made in crisis mode," really carries a lot of truth. But we are funny people as individuals, and we're slow to recognize a problem until it's our problem. And as long as you've got one and there's some distance between us, I'd just as soon let you handle your own problems, and it doesn't affect me. But, unfortunately, water--as well as many other things--it does affect everybody. And if we can somehow make some of these decisions outside of a crisis mode, they're going to be better decisions. So I appreciate your testimony. [LR128]

JOHN MIYOSHI: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Haar. [LR128]

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SENATOR HAAR: Thank you. I'm new to this whole legislative process, having been in the Legislature only one year, so I'm trying to use this as my education as well. What happens if there are disputes between NRDs? Is there...because I'm starting to see in state government when elected bodies go up against elected bodies and start suing each other and that sort of thing, it seems like a waste of resources. How do NRDs resolve differences between themselves? [LR128]

JOHN MIYOSHI: Well, hopefully, the boards and the staff will sit down together and appoint committees and sit down and come up with a common solution for the problem. I think overall...we work very, very hard to work with our neighboring NRDs. Quite often, if we have a similar problem, we might even have an inter-local agreement that we would use so that we don't duplicate the service, but we do get the problem solved. It comes down to even cost-sharing on trees. We try to look at the neighboring NRDs--what are they charging? Let's all provide the same service for our constituents. And so, hopefully...and, again, our situation is probably a little bit different in eastern Nebraska, but we work awfully hard to work together. Our state association meets on an annual basis. Our managers get together. We try not to reinvent the wheel. If something is working for one district, we try to replicate that in others. So we work very hard not to have those conflicts. [LR128]

SENATOR HAAR: And if a conflict can't be resolved, is the next solution the court system, or how does that work? [LR128]

JOHN MIYOSHI: I don't know of a case when an NRD has ever gone to court against another NRD. And, again, with these locally elected boards, I think there's a meeting of the minds. I know our board...going to court is a last-case scenario. [LR128]

SENATOR HAAR: Um-hum. [LR128]

JOHN MIYOSHI: You know, we all have better places to spend the money than with

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lawyers and the courts. [LR128]

SENATOR HAAR: Okay. Thank you. [LR128]

SENATOR LANGEMEIER: Senator McCoy. [LR128]

SENATOR McCOY: Thank you, Chairman Langemeier; and thank you for being here this morning, Mr. Miyoshi. Do you believe we're in a water crisis at this point in our state? [LR128]

JOHN MIYOSHI: There's definitely some conflicts out there that I would call "crisis." And in our own particular basin, we had a preliminary determination of "fully appropriated" last year. At the public hearings--we had hundreds of people show up at those hearings. Especially the one at Norfolk and the one at Fremont had a large number of people--so a lot of interest there. Happy to report, though, that that decision was reversed. The Legislature passed some new rules and regulations to allow some limited development within those basins. In our particular case, it's 2,500 acres per year over a four-year period coming out of that preliminary determination. At our board meeting next Monday we're going to approve 2,200 acres of additional irrigation for 2009. We did not even go up to the limit of the 2,500 acres. And we did not, I don't believe...the recommendation from the committee is not to approve all the applications that came in. There was some ground where development was being asked for that we felt was highly erodable ground, that we should not allow pivots to go on that ground. And those applications will not be approved. [LR128]

SENATOR McCoy: Would you characterize how we've handled water problems in the state is reactive in the past and until now? [LR128]

JOHN MIYOSHI: Yes. Yes, it has been. Especially the last 10 to 15 years, we've been very reactive to the problems. And it's been necessary. Those problems have come to a

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head. Solutions were needed. Fortunately, the legislative committee worked with the irrigation districts and the NRDs to come up with, generally, some pretty sensible solutions. [LR128]

SENATOR McCoy: Thank you. [LR128]

SENATOR LANGEMEIER: John, thank you for your testimony. I don't typically ask a lot of questions, because I'm kind of on the forefront of these issues. I get hit with this every day, so I don't usually have questions. But I think your testimony, with the questions you put on here as well as the outline that follows, really emphasizes why I think LR128 is the starting process to just talk about this. You know, we've had testimony in Valentine are all like: What are you going to do for legislation? I don't foresee LR128 ever becoming legislation for this next session. I think it's...what the goal is is to try and do exactly what you put on there is start to flesh out these kind of questions: Who does what? How you do it. And where do you go? [LR128]

JOHN MIYOSHI: I would hope we could get back into that mode. Back in the '60s, '70s, and '80s, there was a lot of planning, a lot of preparation for the future--the Level B plan. But as issues seemed to come to the forefront, we got out of the planning mode, more into the reactive mode. And it probably hasn't been as efficient as it could have been if we would have had a planning process with an annual or semiannual update of that plan. [LR128]

SENATOR LANGEMEIER: Any other questions? Senator Haar. [LR128]

SENATOR HAAR: Thank you. One of the interesting issues that's come up this morning is the whole issue of self-interest. And I learned long ago, because I served on the Lincoln City Council for eight years, not to be surprised when people come to the table with their self-interest. That's what democracy is all about. But then we also have a responsibility to the state as a whole; all of us do. There was some debate in the

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Legislature as to whether Senator Carlson's program of, you know, taking out invasive species was a statewide or a local issue. And I voted...I think it's a statewide issue; it belongs to all of us. How does that resolve itself on your boards? Do you think that people keep this balance in mind of self-interest versus we're-all-in-this-together? [LR128]

JOHN MIYOSHI: Well, I think we've had a lot of directors--newly elected directors--come on to our board, and they want to change the world. And they have one specific reason--one thing they know about the NRD is the reason that they run for that. Just as some state senators, I'm sure, were...really had their eyes opened when they got involved in the job. And every director that's come on board didn't realize the full gamut of activities that the NRD takes in. And we have never had a director on our board that stayed as one special interest, that they're only concerned with dams or only concerned with trails. Everyone that's come on has stepped up to the plate and understood the broader picture in what we're trying to accomplish. [LR128]

SENATOR HAAR: Thank you. [LR128]

JOHN MIYOSHI: So it's been self-education. [LR128]

SENATOR HAAR: That's good to hear. [LR128]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. [LR128]

JOHN MIYOSHI: I think the five minutes are up. [LR128]

SENATOR LANGEMEIER: Did great. Did great. Further testimony? Don, how are you? [LR128]

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DON KRAUS: (Exhibit 7) Good, good. Senator Langemeier and members of the Natural Resources Committee, my name is Don Kraus, D-o-n K-r-a-u-s, and I'm here to testify on LR128. I want to go back a little bit and talk about some of the events over the last seven or eight years. In 2002 the Legislature found that there were significant issues regarding integrated management of surface water and ground water and passed LB1003, which created the Water Policy Task Force. Governor Mike Johanns appointed a 49-member task force to discuss issues, identify options, and make recommendations. Specifically, the task force was asked to review existing laws and identify changes, evaluate permanent and temporary transfers, and determine how to address inequity between surface water and ground water users. LB962 was passed in 2004. And over the past five years, integrated management plans have been developed. The Water Policy Task Force, I believe in general and throughout, believed there needed to be a dedicated funding approach. That wasn't...we weren't able to pursue or put that into action or implement that view. Over the last couple days I've heard comments that there is not going to be state funding and that local funding is uncertain. You're leaving few options on the table for implementation of integrated management plans, and the one that jumps up is regulation, and I heard concerns about that. The inequities identified in 2002-2003--some of those are still out there. And the typical example...and I have copies of some information I'm going to hand out. But you've seen this before; it's the X Chart, Pumpkin Creek watershed, where you have increased pumping and loss of stream flows. Some of those losses of stream flows are still out there. And we can talk about the difficulty of implementing regulation, implementing these management plans. But you also have the inequities that are still out there that we need to keep working on, and so I keep coming back to the funding. I understand it's a difficult issue and a difficult question. The purpose of today's hearing is development of a state water plan. I support the concept, but I want to make it clear that my support is conditioned on adequate funding. I think that's a principal measure we have to identify up front and find a way to deal with it. We don't want to take funds away from the existing Department of Natural Resources to develop new planning. I mean, we have to find a way to provide the new funds. And I don't know, it may not be a lot; we

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may be able to use a lot of existing staff. But I want to emphasize we need to find that funding for a new planning agency. I would request--I know, it's...you get lots of requests--that the committee take the leadership on the funding. If this committee doesn't take the leadership, I can't see how...to me this is the prime place it should be. And I would request or suggest that you think about taking the leadership to support that funding approach, whether it's for the existing LB962 or the new water plan. I've got an example, and I'm not suggesting you...I'm a little concerned about even suggesting you look at the California water plan, but nonetheless California has been doing water planning for a number of years. We're going to provide examples for everybody just as a...here's what one might look like. And try to not focus on California there. With that, I'll close and answer any questions. [LR128]

SENATOR LANGEMEIER: Are there any questions for...Senator Christensen. [LR128]

SENATOR McCOY: Don, thank you. Do you have suggestions how you think this ought to be funded? [LR128]

DON KRAUS: Gosh, there's lots of ideas, you know, we talked about in the task force. Some type of a sales tax adder, and that was felt kind of dead on arrival. And...I don't know; I don't have the political sense that you folks do, and so I look to you for leadership and having that...those ideas. We're willing to work to help you. I don't know the best road to take there, but, you know, we certainly are willing to work on that issue. I think the TAB (phonetic) people--Ron Bishop, his committee, I think we all feel that's important, but... [LR128]

SENATOR CHRISTENSEN: I can tell you my scars are pretty deep, you know, when you look at trying to get it funding, whether it be state dollars, property tax dollars, occupation tax dollars. I've been beat to death. [LR128]

DON KRAUS: Sure. [LR128]

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SENATOR CHRISTENSEN: And... [LR128]

DON KRAUS: And you know what? Nobody said it was going to be easy. [LR128]

SENATOR CHRISTENSEN: No. And you know what? [LR128]

DON KRAUS: And so I think that's the challenge. That is a challenge, but I don't want us to shy away. I think we have to think about it and say: Hey, we think this is important; we have to find the funding. And sure, we need to be efficient; I respect that. Senator Hansen and...do believe that's important. [LR128]

SENATOR LANGEMEIER: Senator Carlson. [LR128]

SENATOR CARLSON: Thank you, Senator Langemeier. Don, I've read your letters in the last few days and think you've done a good job there. This is a good example of a conflict between surface water interest and ground water interest. Should we have a dictator at the state level making decisions one way or another on this? [LR128]

DON KRAUS: No, I don't...we don't have a proposal, but what we think is, you know, we've through the five years of the integrated management plan as it relates to, and I'm going to focus on NRD. I hate to pick on them, but that is the area that provides the return flows for Lake McConaughy. And so that is our primary area of concern. We had issues in the integrated management plan. We supplied comments. Those were, you know, in the...the way it was set up, the state and the NRD have the power to say yes or no, and they take input and then they move forward. I would like to look at other options, you know. Where is the...you know, how do you protect...if there were ways to protect surface water appropriations, that would be a good start. I mean, those that are...or if there are ways to try to limit withdrawals where you've got inequities, and I don't have a proposal, Tom, but those are things I think about. [LR128]

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SENATOR CARLSON: Well, this is...it is a prime example of the NRD has its thoughts and ideas and strong feelings about what they believe their irrigators have a right to, and you have your position, and it's not an easy solution. But I hope that the end result can be something that is somehow mutually beneficial and that again as a state we can move forward and keep water available for the people who need it to produce the crops that make us number one in agriculture. But I appreciate your efforts. [LR128]

SENATOR LANGEMEIER: Other questions? Senator Schilz. [LR128]

SENATOR SCHILZ: Don, good morning. How are you today? [LR128]

DON KRAUS: Good. [LR128]

SENATOR SCHILZ: Say, just and you've been around for the last couple of days of testimony and stuff, and you've heard a lot of what's going on as far as water planning. Do you see any merit in some of the things where we've been talking about trying to capture excess flows if and when they're available and doing some of that kind of stuff to be more proactive in trying to make what Senator Carlson was talking about a win-win situation? [LR128]

DON KRAUS: Sure. I mean those are all things we should look at, and there was one comment I thought about yesterday, and I mentioned it to Senator Langemeier just briefly yesterday. But, you know, as we look at the three-state program and they are doing studies; they are doing planning. They have a challenge to reduce shortages, the target flows by 130,000 to 150,000 acre feet over the 10 to 13 years, and they're looking at water projects. And the state of Nebraska when they stepped...you know, agreed to that approach for looking at water projects in the state, said we want to reserve 50 percent of the yield, you know, have the option for reserving 50 percent of the yield. So there is a point at which, and the state is looking and evaluating those and may want to

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participate. But is there going to be funding to help make that happen? Just a challenge, I think we need to...some of those are going to be ongoing, and we need to be planning for how would we step up, how would we provide for the ability to reserve 50 percent of a water project. [LR128]

SENATOR SCHILZ: Sure. I guess I would contend that there's probably areas out there right now that if they could just find some...get some certainty from being able to start a project by a recharge project or something. And I think private districts or whatever would be very interested in stepping aboard and doing some pilot projects. [LR128]

DON KRAUS: That's possible. [LR128]

SENATOR SCHILZ: I hope that we can get to that point where that can happen. Thank you very much, Don. [LR128]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much. Welcome. Did you get a green sheet by chance? [LR128]

MICHAEL JESS: No, I didn't. I'll get a green sheet and I'll promise to deliver that. Mr. Chairman and committee members, I'm Michael Jess, J-e-s-s. I'm self employed, and I live in Lincoln, Nebraska. I'm here at the request of the members of the board of directors of the Nebraska State Irrigation Association. The association, if you're not familiar, was organized in 1893 in North Platte, and it is composed of a few individuals like myself, but for the most part, irrigation districts, reclamation districts, public power and irrigation districts and a couple of canal companies. And from the sustainable flows of our rivers and streams and reservoirs that the entities own, they supply irrigation water to about a million acres of land in Nebraska's river valleys. We support the idea behind LR128, a comprehensive planning effort, that should be reinitiated, we believe. We have talked a number of times about what is state planning, and we look at the 1971 framework study that was put together by the organization at the time called the

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Soil and Water Conservation Commission. And we look at the words of commission member Bell who described a study as a continuing process of inventorying resources, defining needs, problems, and opportunities, setting objectives, and examining available alternatives to meet the objectives orderly and efficient development of Nebraska's water and related land resources. Since the 1971 framework study was done, we see our state as having taken a change in direction. We now see ourselves spending a great deal of time devoted to integrated resources plans, integrated resource management plans which I think as Mr. Dunnigan described to you are fairly narrow in their focus. They don't go to broader issues which might help us avoid the necessity of regulation that a number of people have talked about earlier. When you think about the plans, they don't go to the broader issues such as should Nebraska on average allow some seven million acre feet to flow out of our state into the Missouri River and ultimately to the Gulf of Mexico? Should our state have more instream flow permits other than just on the Long Pine Creek and in portions of the Platte River? And when it comes to allocating financial resources for the construction of projects, should those decisions be guided by important resource issues in locations such as the Platte or the Republican where water supplies are limited rather than in areas, perhaps urban areas where they go more for reservoirs for flood control or for recreation values? Some fairly heavy issues that we think should be considered in a state water planning effort. Some of you probably are aware, I've for a number of years was Brian's...one of his predecessors, and one of the things I took away from that experience was oftentimes our state's planning efforts are by...sort of by implication and by coincidence, and they do not reflect conscious decisionmaking. The association...irrigation association thinks we should go back to conscious decisionmaking which we saw being done in the 1971 framework study and in efforts like that. Mr. Kraus, I think, distributed to you copies of...a brief copy of the California planning effort. I've spent some time looking at the California effort and California has a lot of examples like Nebraska. It's very complicated. Groups are pitted against one another. Their planning effort has had some measure of success in overcoming those obstacles, and I think it's worthy of our support as well. [LR128]

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SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Jess? Senator Carlson? No. No questions. [LR128]

MICHAEL JESS: Sure. [LR128]

SENATOR LANGEMEIER: Thank you very much. Well done. Further testimony on LR128? Seeing none, oh, a little hesitant. Welcome. [LR128]

BRAD EDGERTON: Good morning, Senator Langemeier and committee members. Thank you for the opportunity to speak today about this important issue. My name is Brad Edgerton, E-d-g-e-r-t-o-n. I'm the manager of Frenchman Cambridge Irrigation District located in the Republican River Basin. I also serve on the Nebraska Water Resource Association board of directors as representative for the Republican River Basin. Today I'm speaking on behalf of the water users of the Frenchman Cambridge Irrigation District. Frenchman Cambridge holds 41 natural flow permits with priority dates ranging from 1890 to 1987. Water users in the irrigation district have paid and are still paying for the construction of reclamation projects including the federal dams that provide flood control and recreation for many people up and down the valley. Each year Frenchman Cambridge water users are assessed a fee for the operation and maintenance of these dams. We have contracts with the federal government for 143,000 acre feet of storage water. Tomorrow in Alma, Dean _____ will release details on how they plan to comply with the Republican River compact. In Holdrege last month, they indicated that they would curtail surface water and ground water use if needed so that Nebraska can comply with this federal water right of 1943. The sad fact is Nebraska knew by provisions of the '43 compact when fully appropriated would be achieved. They knew we were appropriated 49 percent of the computed supply. They knew each sub-basin had an allocation. Reclamation designed and built these projects because they knew there were flows unallocated in 1943. The state knew ground water counted in the Republican River compact. In 1959, the first compact meeting was held and

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ground water was included in the calculations. The bottom line is, Nebraska was asleep at the wheel on this one. Nebraska, the state, needs to step up and fix this, not the Nebraska of the Republican River Basin. The NRDs did exactly what the state asked them to do--go and develop the state's economy, and someday we'll lead the nation in irrigated agriculture. Nebraska must honor this federal water right of 1943. It should also be the policy of Nebraska to honor the water rights in the Republican River Basin. Don't make the Republican River Basin pay for Nebraska's oversight. Thank you. [LR128]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Edgerton?
Senator Carlson. [LR128]

SENATOR CARLSON: Thank you, Senator Langemeier. Brad, your last statement. Don't make Republican River irrigators pay for this, and I appreciate your brief comments here. Would you expand on that last statement a little bit? [LR128]

BRAD EDGERTON: Well, you know, the basin has been overappropriated. To what extent we don't know. There hasn't been an evaluation to see at what level we're at. I think that would be an important step in determining what the real problem is. But the Louisville area ground water users that are also water users of surface water, most of them within my district, are going to be asked to curtail their use in times when we need to comply with the compact. We have some old water rights and, you know, Nebraska has a water right. We get 49 percent of the water supplies of the basin, and now that the decision is, who has the right to consume that water? You know, we have first in time, first in right for our water rights. You know, ground water is being asked to cut back, you know, maybe 10 or 20 percent. We don't know what that number is, but yet surface water is being asked to cut back 100 percent. With first in time, first in right, we cut back, you know, probably 10 to 20 percent a year just by putting a call on the river and when there's a shortage, junior permits are closed so that the senior permit can benefit from that. So it's...the economics--it's just hard to imagine what it will do to the Louisville area and the small towns up and down the valley. You know, they're the ones that are

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going to pay for this. [LR128]

SENATOR CARLSON: All right. In regulations that would shut surface water irrigators and ground water irrigators down, the rules that have been in place for years on surface water, you would...and we're talking about who gets to use the 49 percent. So you'd be okay with some surface water irrigators being shut off. [LR128]

BRAD EDGERTON: Yes, and that, you know, that has happened in the past. When we're short, we place a call on the river and some of those water rights are curtailed for the benefit of the senior permits. That's already in place. [LR128]

SENATOR CARLSON: Okay. And that's established law through the years. Then are you okay also with some ground water irrigators being shut off? [LR128]

BRAD EDGERTON: Well, there's only really two ways to solve the problem in the Republican River Basin. We have to reduce our consumptive use or we have to increase our supply. Taking water from other parts of the state doesn't seem to be an option, but it would solve the problem. If we could get a recharge project in the headwaters of the Republican River, get those stream flows back to a level that would allow us to pass enough water to the state of Kansas, then, you know, that would be one solution. But if we don't do that, then reduction in consumption is the only answer. You know, we can sell water from our reservoirs to avoid the water short year and get out of the two-year accounting and get into the five year, but you know, that doesn't increase the supply in the basin. You know, the water is whatever it is. You know, it's based on, you know, what comes from base flow out of the aquifer or what comes from rainfall and runoff so it is what it is. We can't change that. The only thing we have control of is the consumption of the water. [LR128]

SENATOR CARLSON: All right. Two, and I'm not asking this because I think the answer is obvious. I'm just asking it for my own clarification as well as probably several others

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here. But you talk about the headwaters affecting supply, that would be augmentation, correct? [LR128]

BRAD EDGERTON: It could be, yes. I mean that... [LR128]

SENATOR CARLSON: That's one of the possibilities would be augmentation. [LR128]

BRAD EDGERTON: Yes. [LR128]

SENATOR CARLSON: Well, whether it's augmentation or something else, whatever it is costs money. [LR128]

BRAD EDGERTON: That's true. [LR128]

SENATOR CARLSON: And so we are...our backs are to the wall as to what's our funding source to put things into place to avoid these drastic steps. [LR128]

BRAD EDGERTON: Well, sir, we're in contempt of court with the U.S. Supreme Court. That's going to be a pretty expensive option too, so really don't have a lot of choices. [LR128]

SENATOR CARLSON: We're going to pay it one way or the other. [LR128]

BRAD EDGERTON: That's right. [LR128]

SENATOR CARLSON: And, hopefully, we'd pay it in such a way that would keep water in the hands of as many producers as possible. Okay, Brad, appreciate your testimony. [LR128]

BRAD EDGERTON: Yes, sir. Thank you. [LR128]

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SENATOR CARLSON: Thank you. [LR128]

SENATOR LANGEMEIER: Any other questions? Senator Christensen. [LR128]

SENATOR CHRISTENSEN: Brad, how would the water balance...I know, have you seen the water balance plans have been put together by twin (inaudible). It's even into the Perkins County. Have you seen that before? Do you know how that would affect (inaudible)? [LR128]

BRAD EDGERTON: I haven't seen that. I'm sorry. [LR128]

SENATOR CHRISTENSEN: Thank you. [LR128]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. Welcome, Don. [LR128]

DON ADAMS: Good afternoon, Senator Langemeier and members of the committee and other senators that are here. My name is Don Adams, D-o-n A-d-a-m-s. I'm executive director of Nebraskans First Statewide Ground Water Irrigators Coalition. And I'm not sure if I'm opposed or support or neutral on this. I'm not sure exactly where we're going with this, but I'd like to just make a few comments on LR128. I wasn't going to say anything until I heard Mr. Thieman testify. And I just can't let that go, I think, (laughter) without, you know, having a few truth seeds interjected here. First of all, we are in compliance with the Republican River Compact. We are in compliance. We're not in contempt of court. Second, it's an irrefutable fact that we are a production state. Those who use the water to irrigate, they do so to produce food for those who consume it, including Mr. Thieman. We're the number one irrigation state in the country. I think we just moved ahead of Texas. Irrigation sustains our ag-based economy. The only new wealth created in this state, not recycled wealth, is created by producers. That is new

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wealth that sustains our economy, churns through the local communities, sustains the high quality of life we have here and, frankly, has got us through this recession a whole lot better than we would have gotten through it if we had excessive restrictions on irrigation. What we need, and I said this yesterday, I'll make it short. We desperately need a twenty-first century water policy. It seems the policy we have now is in a period of... [LR128]

SENATOR LANGEMEIER: I got to stop you. I got to have you slide that away from you a little bit. A little more, there you go. We'll try that. It's not recording. [LR128]

DON ADAMS: Okay. It seems to me that the policy we have now is in times of drought or water short periods that we frantically go around trying to shut down irrigation, which again sustains our economy. It doesn't make any sense. I think a twenty-first century water policy must be founded on the basic facts that every year 2 million acre feet of water enter our state, 90 million acre feet fall on our state, and we allow 8 million acre feet every year to flow out of our state. If we could just save and bank a small percentage of that 8 million, we could go a long way to solving whatever problems we have. We are not in a water crisis mode. A recent study by the USGS on the Ogallala Aquifer in Nebraska, from predevelopment, when there was no wells, 1950 basically to 2007, the water level under Nebraska has dropped only .06 percent. That includes seven years of terrible, severe drought. Doesn't include the healing years of 2008 and 2009. When the next study is done the news will be even better. I guess, our plan would stress allowing the NRDs to do their job unfettered by excessive state interference. The general managers are excellent, they know their basins, their staff is good. And the board members work very hard to do what is best not only for their basin but for the state, it's an extremely difficult job. They can do it but they don't need any additional state interference. I would like to see LB962 repealed and I would like us to get out of the cooperative agreement Platte River Endangered Species Program before it's too late. Because when phase II and phase III of that program kick in, the impact to this basin will be upwards of \$400 million annually to the economy, as we will be forced to

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retire a third of a million acres from production. Finally, do not be swayed or intimidated by the Omaha World-Herald. They obviously have an agenda and they're pushing it hard and they're trying to get you to do things that would suit their agenda. Centralizing more control in Lincoln will result in water policy being made by a single nonelected bureaucrat and greater influence will flow to the environmental groups, Game and Parks Commission, U.S. Fish and Wildlife Service and the media. Thank you. [LR128]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Adams? Senator Christensen. [LR128]

SENATOR CHRISTENSEN: I appreciate your statement there: What would the impact have been on the state? We read the paper, say we're going to be in a special session to cut spending. We had six water short years in the Republican this decade. If we would have shut off all the quick response, be it four of them or six of them, depends whether the plan worked, shut off 200,000, 300,000 acres, we don't have the exacts given to us, been a huge hit on the Nebraska economy all over not having a state water plan or transfer plan or something. I think that's a good point. I appreciate you bringing that up because right now this group up here is thinking, where are we going to cut money out of this budget? And we already would have had less money if we took on the plan that's proposed. [LR128]

DON ADAMS: That is correct. Cutting off...the Kansas plan of forcing us to cut off 300,000 acres plus down there would, we've calculated when you factor in multiplier and the devaluation of the property tax base, be a \$1 billion hit to the economy. The communities down there could not sustain one year of that. That would do them in. That...the Red Box Proposal they call it, needs to be completely off the table, not even consider it as an option. [LR128]

SENATOR CHRISTENSEN: I appreciate that because what this group needs to think about too in that deal is when the property tax valuations leave, the school funding

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formula will change drastically and shift tons of money west. And if this group is not ready to deal with that, then we better get some water issues taken care of. [LR128]

DON ADAMS: I agree, Senator. [LR128]

SENATOR LANGEMEIER: Senator Carlson. [LR128]

SENATOR CARLSON: Thank you, Senator Langemeier. Don, I'm always interested in listening to what you have to say. I don't agree with you all the time and that's okay. But one of the things, both yesterday and today, I really do agree with, you talked about that map that shows changes in aquifer levels from predevelopment to current date. And you look at the state of Nebraska, and overall we don't look too bad. Now if you take the state by itself, we've got a couple areas that I think deserve real concern because we don't want to mine the aquifer. And so I think we've got areas of concern. But I'd like you to comment on how do we compare with going south Kansas, Oklahoma, and Texas on that similar map? [LR128]

DON ADAMS: Oh, we're in a far, far better situation than they are, which indicates to me that the local NRDs have done an excellent job in managing our ground water resources. There has been no change from, it's amazing, 50 plus years. Yet Box Butte County, that's a bad area, but that's not related to stream flow and western Republican. But other than that, it's unchanged or even green in increasing, Central Platte and then going to the Lower Platte the levels are increasing. [LR128]

SENATOR CARLSON: Well, I think it's important that we keep in mind we're not perfect and we're trying to strive to do even better. But sometimes we beat ourselves up unnecessarily when we look at what some of the other states aren't doing that are really affecting the aquifer. [LR128]

DON ADAMS: That is correct. [LR128]

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SENATOR CARLSON: So we're not doing everything wrong. [LR128]

DON ADAMS: We beat ourselves up when we read the newspapers and hear this incredibly bad news that isn't factual. It's a global warming type thing, the longer they keep telling you we have a water crisis in this state, I guess, people some day will believe it. We do not. The crisis is allowing 8 million acre feet to flow out of the state, that's the crisis, to turn into salt water. [LR128]

SENATOR CARLSON: Okay, thank you. [LR128]

DON ADAMS: Thank you. [LR128]

SENATOR DUBAS: Other questions? Seeing none, thank you, Mr. Adams. Next testifier. [LR128]

RORIC PAULMAN: Roric Paulman, R-o-r-i-c P-a-u-l-m-a-n. I'm a producer from western Nebraska. I testified yesterday. And I got kind of beat up later on in a couple of other presents. And I kind of wanted to take a shot at that. But also I wanted to (laugh) also reiterate some of the thoughts that were out here. And Don Kraus mentioned the California water plan. And in the documentation that I provided you yesterday, there is a six page kind of an implementation, kind of a high level look at how a water plan could be started, evaluated, some of the material that we looked at. And one of those was the California water plan. Another one was the U.S. Geological Survey that was recently released water budgets, "Foundations for effective water resources and environmental management." We looked at the Colorado River Basin, we looked at the High Plains Aquifer, we looked at the San Pedro River Basin. We looked at a lot of things. And we also looked at data that is right here in our own home state, and that was from Shaefer and Bentol (phonetic) in the sixties and seventies, that a lot of that information still applies today. And so we moved through that. And I'm not going to go over the

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document again. I provided that yesterday, but there's guiding principles in here. There's an implementation process and it involved all the things that we've talked about. I was present in Valentine, but it involves all of the questions, concerns and thought, almost in its entirety, of how to look at a water budget process. I have a lot of respect for the people that take the time and the effort. And in there, there is a spreadsheet that I think Senator Christensen alluded to. There's a breakdown of the Twin Platte, over 50 years of average data and what its impacts were to stream flow. Now it's draft form. I don't necessarily agree with all of it, but it was prior to and up through a huge development time in the Twin Platte NRD. And then also there's another spreadsheet in there that...of a water supply assessment that is statewide. I mean, we took a stab in the dark. We did a high level assessment of what that is. And really, that's the bulk of what I wanted to add here today was that that presentation that I gave you yesterday, that that document is included in that. And again, it's in what I call laymen's terms for myself to get a handle on what the potential could be or how that could go about being a part of a water budget process. With that, I had one more response. Senator Carlson, I did not have time last night to address that savings. And then also on the water meters, I didn't want to leave that I was opposed to having a tool in the toolbox because absolutely in our IMP, water, you know, removal of water from the ground is absolutely measured. But in the realm of the consumptive use I think there's other tools that are less intrusive. And I'll just pick in my particular instance if it was mandated that I had to have a meter on every well, that's a \$50,000 or \$60,000 obligation to my operation. Again, it's a large operation, so maybe that's peanuts. I don't know. But I think that if you take it down to an individual producer with five wells, that's still a huge investment. Then the added cost of looking at the maintenance and how it's reported and the validity of that report. And so...and I know that there's various ways that that is being assessed across the state, whether it's by individual NRD and the upper, they take care of all of it. I get a report that says, here is what you used for the year and here is what your remaining allocation is. But as we look at how we manage irrigation wells, there is...the technology...I know that the Central Platte and also Twin Platte both have portable meters that you can come out and basically certify your well and tie it to an hour meter.

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That's all equipment that is existing as opposed to imposing another expense that may or may not be any less or anymore accurate. In my experience of irrigation, if I put in a well, I expect that well to last 20 years. And if I set it up for 700 gallon a minute, it pretty much stays that way for 25 years. So if we certify it one time and revisit it, you know, maybe that's a potential. But then that's going back on Mr. Miller's statements about the available funding. If a program in the Twin Platte, even if all they did was administer it, let's say it cost a couple hundred thousand dollars, and he only has \$600,000 available per year, then that takes away from some of those other programs or possibilities that could be funded. So again, I'm just kind of looking at it in a perspective of the technology and the things that are coming about that I believe could be a tool as well in that toolbox. But I didn't want to leave you with it that I was against accounting for withdrawal of ground water. [LR128]

SENATOR DUBAS: Thank you, Mr. Paulman. Questions? Seeing none, we'll let you off the hook. Thank you. [LR128]

RORIC PAULMAN: Thank you. [LR128]

REX NELSON: Good morning. I'm Rex Nelson, N-e-l-s-o-n. I'm the executive director of McCook Economic Development, from southwest Nebraska, obviously. I'm not a water expert. I'm a community expert, but I do have some history with this. I'm also a landowner and an irrigator. And my father was a charter member of the Middle Republic NRD board. And when we speak of history and the need for planning, I can relate to you as a high school student my father handing me a letter from Kansas water interests. I believe there were 22 attorneys on the letterhead. And the essence of it was, we want you to shut off enough stream flow, enough irrigation wells to restore normal stream flow. He said, we're going to have to change the way we manage irrigation water. I submit that the planning wasn't done aggressively enough, soon enough to have the impact it needed to have. I was called in to a group of community people in our area. And it was really a broad based group of lenders, ag suppliers, rural power districts,

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businesses, and of course some farmers. And I would sense the deeper level of concern on water issues than I'd ever seen before. And a lot of the concern was sparked by the plan that had been at least released in a sketch from the Governor and the Department of Natural Resources that suggested that we would rely heavily on shutting off alluvial wells and surface stream flow to...in water short years to deal with restoring the flows to the Republican for the Kansas-Nebraska Compact. And we think that's problematic. We've run some quick numbers. And in the last 34 years that the Harlan County Reservoir, 54 percent of the time the river would have triggered the shut down of alluvial wells. Now if you're running a business and you're going to be shut down fairly capriciously 54 percent of the time, you're not going to continue to operate that business that way but essentially would shut down some of the best irrigation in southwest Nebraska, in Nebraska, and oftentimes with the oldest water rights. We think that places an unfair burden on the shoulders of a select group of irrigators in designated areas and yet enables continued pumping in other parts of the basin. The unpredictable nature of the water short year creates a persistent level of uncertainty, which reduces the financial performance of the affected farms and the area businesses far more than would have reduced a predictable allocation. It can be expected to further depress the economy and reduce the value of the farmland and the tax base. We think the plan is a short-term fix. It fails to address the long-term issues. The proposed plan is fundamentally flawed and I think it invites continued political and economical turmoil. The proposed time line is too close and it doesn't give us time to have a full discourse on the issue. In this group we really acknowledge that the solutions must be found to address the water issues and believe that a majority of the residents and irrigators fully expect to play a part in the solution. A workable plan, though, should treat all irrigators equally, spreading the burden of compliance across the entire basin. And should not secure compliance...only secure compliance with the Compact, but should assure long-term sustainability of our natural water resources. So with that, I guess, I would entertain questions. Certainly, we're in favor of better planning. [LR128]

SENATOR DUBAS: Thank you very much, Mr. Nelson. Questions. Senator Schilz.

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[LR128]

SENATOR SCHILZ: Thank you, Senator Dubas. Rex, thanks for coming in today. Obviously, this has to be very concerning to you being the Economic Development director? Is that right? [LR128]

REX NELSON: Yes. [LR128]

SENATOR SCHILZ: Yeah, for McCook. And then I understand what you're saying in your testimony. And basically, you're basically saying that if you're going to go down this path and you're going to regulate ground water irrigators, that you believe the tenets of (inaudible) right should be maintained all the way through that and not just a select few shut off, correct? [LR128]

REX NELSON: Yes. [LR128]

SENATOR SCHILZ: Okay, thank you very much. [LR128]

SENATOR DUBAS: Other questions? Senator Carlson. [LR128]

SENATOR CARLSON: Thank you, Senator Dubas. In your initial statement, on your figures over how many years would this have triggered the shut down 54 percent of the time? [LR128]

REX NELSON: It was 34 years. [LR128]

SENATOR CARLSON: Okay. [LR128]

REX NELSON: When the Harlan...in the last 34 years, Harlan County Reservoir dropped below the 119,000 acre feet threshold that would trigger that. [LR128]

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SENATOR CARLSON: Okay, thank you. [LR128]

SENATOR DUBAS: Other questions? Senator Christensen. [LR128]

SENATOR CHRISTENSEN: I think if you look at that plan where there's a 10,000 acre cushion in there, you'll find the number of years increases drastically. I'll just let you know it's worse than what you're saying. [LR128]

REX NELSON: Yeah. We discussed that too. [LR128]

SENATOR DUBAS: Other questions? Seeing none, thank you very much, Mr. Nelson. [LR128]

REX NELSON: Thank you. [LR128]

SENATOR DUBAS: Next testifier. [LR128]

BUTCH HUGHES: Yes, I'm Butch Hughes, H-u-g-h-e-s, 4135 East Hadco Road in Hastings, Nebraska. And I'd say I probably represent the individual farmers, business owners and everybody in your rural communities. And I think this thing is so simple and everybody is trying to make it so complicated. It's been proven that cleaning up the waterways, you get more water in stream flows. Yet the Legislature didn't have the courage to fund that. Okay, that's a...it's a pretty unexpensive increase of water. And those...the vegetation stuff can be taken care of basically from bank to bank when you go the entire valley. Anything that will get into that aquifer where that, you know, creates surface water could be game to remove. And for those people worried about wildlife, a deer don't care if the haystack is on the hill or down in a hole. So it's not going to affect wildlife but it is going to affect the water flow. So it's proven to work and it needs to be done not only in the Republican but also in the Platte. I don't know how many billions of

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gallons of water those invasive species and trees and nonagricultural vegetation take, but it's got to be in the billions an billions of gallons. So it needs to be done. And I certainly agree with one of the prior testifiers that we've got to get out of this tri-state water thing that's going to take a lot of our water away from agriculture. For those who are in economics, all wealth comes out of the earth. And anytime you start taking it away out of the earth, you're going to have economic, you know, domino effect to the entire state. So it's really important that we let our agriculture have free reign to produce as they can and do. So I think that also as a committee here I encourage you to please stand up against the executive branch at the state. I think we got...our Governor is starting to become very heavy-handed. This is a reflection from some of the NRDs. They're being told, you need to come up with a script and this is what you're going to write, and if you don't go along with it we're going to put you out of business. You know that's a little bit over the top. So I hope that you will stand up against the executive branch so that...and start representing the people in your district. So the solutions that I see are the vegetation removal from all tributaries as needed. And then the other thing that's pretty simple is taking water out of the Platte, which can be done. You have to tell the feds that they can stay out of our business. But from the Platte River down around Ashland and take it down where it goes into Kansas. So if you have to...if you run a little short some summer, well, then shut down a quarter of your state ag production, just flip the switch and give them water they need. I mean that's...there's nothing too hard about that to do. So I just...I pray that you folks will keep it simple. And so at this point, with the resolution 128, I would say I probably would support that plan, that statewide plan if that plan is to clean the streambeds and come up with another...with an auxiliary source of water into that Republican, you know, down there where it goes into Kansas. Yeah, we have to do with it. And I also encourage the folks to keep away from any statewide mandate that takes away from local control. We saw this with, I think, the way I interpret it anyway, with the nuclear waste dump up in Boyd County. Those people really had no say and it got forced down their throat. And eventually, there was enough trouble created and it was pulled out. And it eventually cost the state \$156 million. Now we could avoid that by making sure that local people have their say. And that's what the

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NRDs are about. Thank you. [LR128]

SENATOR DUBAS: Thank you, Mr. Hughes. Questions? Senator Carlson. [LR128]

SENATOR CARLSON: Thank you, Senator Dubas. Mr. Hughes, I appreciate what you said about vegetation. But I think it brings out a point that whatever you do, whether it's that or something else, there is a cost. But there's a cost to not doing something. And what I would like to hear and see as we go along here with any kind of a plan if it's to shut the faucet off so that people can't irrigate, what is that cost? And that cost is not in terms of state tax dollars but it's in terms of producer dollars. What is that cost? There is a cost. And we should know that. And that would be the kind of thing that I think would help in some decisionmaking. But thank you for your testimony. [LR128]

BUTCH HUGHES: Well, I think that as far as the cost, you know, they've got these little programs where state sales tax stays in the area it's generated, like the Qwest Center. Now the Qwest Center really don't create a whole lot of business other than something for Omaha. But you could take state sales tax revenues, you know, it an apply it in the Republican watershed and leave those in the local areas and let them fund their own water stuff. Now that may mean some other programs are going to be cut, but if they can do it for the Qwest Center, I think we could do it. Because that stream flow that is tremendously inexpensive for what you was really accomplished. So I think you can look at other resources and let that fund itself. But for water policy, and this is where the state got into trouble before, where you pick on the Republican people to pay for a state water policy is vividly unconstitutional. So anything you do about the Republican watershed or the Platte River has got to be funded universally across the state, so you're not picking on some irrigator in Alma, Orleans, or out at Imperial. [LR128]

SENATOR DUBAS: Thank you, Mr. Hughes. Other questions? Seeing none, thank you very much. [LR128]

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BUTCH HUGHES: You're welcome. [LR128]

SENATOR DUBAS: Next testifier. [LR128]

TOM KNUTSON: (Exhibit 8) Good morning. Mr. Chairman and members of the committee, my name is Tom Knutson. I'm general manager of the Loup Basin Reclamation District in Farwell, Nebraska. Our district owns the facilities that provide water to the Farwell and Sargent irrigation districts and parts of four counties in the Loup Basin area. We've been in business since the 1950's. And we became owners through title transfer in 2002. I've held the position for 25 years and I've worked on state and federal water issues for more than 35 years. My position out of college was first as a water resource planner on a state water plan in the state of South Dakota in 1973. In 1977, I became the supervisor of the State Water Plan Division for the Department of Natural Resources in South Dakota. We had 17 river basins that we worked on and we completed the work in 1978. And we had hearings on those plans and took public feedback. My involvement in their state water plan was very useful for my career in setting the side bars for what a person needs to consider in making decisions in water resource management. Those side bars are, in simple terms, how much water do you have in a basin, how much is being used, how many projects do you have that need water, and are there any legal rules and regulations that you may have to adhere to that complicate the process like compacts? When I went to work for the Missouri River Basin Commission, in Omaha, Nebraska, in the fall of 1980, I learned that the state of Nebraska had a water plan and that it had been worked on in the 1970's. And we had two water laws, one for surface water, and one for ground water. I really didn't think a whole lot about it at the time, until I went to work in Farwell, Nebraska, in January of 1985. In my opinion, you cannot do water planning unless you do it by river basin. I'll go back to the principles that I first learned in water planning. How much water do you have in the basin and how much is being used, etcetera. In Nebraska I think in a number of cases we are still guessing. If we're not, we're probably...we would probably know all the answers and things would be a lot simpler to the questions that are being asked.

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Yes, we have numerous studies that have been done in Nebraska. And, yes, we've had a lot of data from those studies. But yet we continue to argue and discuss the merits and probably the validity of those numbers based upon the views of those who want to argue about it. In addition, the Legislature has provided the power to 23 natural resource districts to do water planning, to the Department of Natural Resources to do water planning, but the emphasis is not fully on river basin planning but more so on the 23 plans within the 13 river basins. A good case in point would be LB962, which provides the vehicle to do integrated water management planning for fully appropriated river basins. In addition, the Legislature provided the power to 63 irrigation districts, companies from reclamation districts to manage surface water in the western two-thirds of the state with regulatory oversight from the Department of Natural Resources. All these districts were formed from...pardon me, were formed in the early 1900's through the 1950's. The oversight by the state has never been an issue for our district because we've grown up leaning that that's the way we do business. My view on local control is that we need to keep it in place. But do you think, Mr. Chairman and members of the committee, that there are times in this state that local control sometimes goes across a pasture and impedes local control for other districts? I think so. Is there an easy fix? Nothing is ever easy in water resource management. However, I would suggest to you that we need to start by recognizing that the boat going down river today is not the boat we want to be in without further defining the roles, the responsibilities and the fact that we need a state water plan. I would suggest to you that we need to move forward with the plan, we need to do it by river basin, we need to have a planning director at the state level that leads the effort, we need all the local water management entities involved in the process. We need to focus on not what it will cost but what it will cost us if do not have a state water plan. In other words, how much money has been spent thus far on attorneys and lawsuits between states, local entities, coalitions, and I could go on and on. Other states around us are sometimes ahead of us in regard to having worked on state water planning. I'm familiar with South Dakota, having worked there years ago. And I'm submitted to you in my testimony copies of information that I would hope would be useful to you. Wyoming also has a good program going, with excellent funding and

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direct involvement by members of the Appropriations Committee in their process. Back to South Dakota, they have seven water development districts that cover the state, locally elected boards with five to nine board members. The size of the boards is based upon population within the respective districts. They work with other local entities on project activities. The state has a seven-man...the state has a seven member board of water and natural resources, whom all are appointed by the Governor. The board makes the decisions on funding with the assistance of the state staff. The amount of funds they normally have is about \$8 million per year, and it's called dedicated funding for their project activities. Please refer to the sheet that has HB1238 at the top for your information on how they tax it and their programs. Attached is an e-mail link for information on their programs in South Dakota. In summary, I do feel we need to move forward with the right leadership, with the proper legislation, with adequate funding to allow projects and programs to move forward to benefit Nebraskans. And I feel this way, too, that local control by the natural resource district, by the irrigation districts is very important and we need to keep that in place. And I think we need to look at it like this, let's work together with an attitude of can-do. And I thank you, Mr. Chairman and members of the committee. And I'd be more than happy to try and answer any questions. [LR128]

SENATOR DUBAS: Thank you, Mr. Knutson. Questions? Senator Schilz. [LR128]

SENATOR SCHILZ: Tom, good morning. How are you today? [LR128]

TOM KNUTSON: Very good, thank you. [LR128]

SENATOR SCHILZ: Good. Hey, just to digress just a little bit, first of all I know it was in 2002, but congratulations on the title transfer. I know it's a very intensive and hard thing to get done. Do you know, can you tell me how many years that has worked on that? [LR128]

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TOM KNUTSON: We worked on it eight years. [LR128]

SENATOR SCHILZ: Eight years. And how many other, and I know this is way off the subject. But how many other title transfers have there been in the U.S.? [LR128]

TOM KNUTSON: We're the only ones that got total title transfer with a reservoir and all the dams and canals. There are several others that have gotten title to their canal systems, but not their reservoir and dams. [LR128]

SENATOR SCHILZ: Has it reduced your headaches any? [LR128]

TOM KNUTSON: Yes. [LR128]

SENATOR SCHILZ: (Laugh) Okay. Now you talked about there may be times when local control just can't take care of what's going on. Do you think the mechanisms that were established in LB962, do they address some of those issues? Is it adequately addressed in that? Do we need to revisit that as far as...or does it go too far? [LR128]

TOM KNUTSON: I'm going to qualify that answer by saying that I probably am not an expert on LB962. I think that there's probably some good language in there that can help the issues as far as local control. There may be some that are still questionable, and may be some that we need to work on as we move forward. [LR128]

SENATOR SCHILZ: Okay, thank you very much. [LR128]

SENATOR DUBAS: Other questions? Seeing none, thank you, Mr. Knudson, for coming today. [LR128]

TOM KNUTSON: You bet. [LR128]

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SENATOR DUBAS: Any other testifiers on LR128? Seeing none,... [LR128]

SENATOR LANGEMEIER: Seeing none, we'll close the hearing on LR128. I want to thank everybody that participated. Hopefully, we can get some air moving through here with the doors open, because it is quite a bit warmer at this end than this end. Now we'll move on to LR...open the hearing on LR181. And Senator McCoy is going to come up and do his opening. [LR128 LR181]

SENATOR McCOY: (Exhibits 9-14) Thank you, Chairman Langemeier. And good morning again to everyone. I am Beau McCoy, B-e-a-u M-c-C-o-y and I represent the 39th District in the Legislature, here to introduce LR181, which is an interim study to examine the feasibility and benefits of restructuring the natural resource districts to potentially encompass the entirety of a river basin or specific area of the state. This study also seeks to analyze and explore the processes and ramifications of realigning and perhaps reducing the number of natural resource districts. Since 1972, natural resource districts have protected and managed water as the most precious natural resource to our state. During the discussion in 1969 on LB1357 that created the natural resource districts, Warren Fairchild, who was the executive secretary of the Nebraska Soil and Water Conservation Commission, states, and I quote, now what is the objective of LB1357? Well, the objective of any natural resource bill should be twofold. It should be for efficient and effective government, and it should be to accelerate the natural resource programs, end quote. This is fundamentally why I introduced LR181 and one part brings us here today. To evaluate the efficiency and effectiveness of our natural resource districts in meeting the challenges of today in regards to the stewardship of our natural resources. Without question, one of the most public challenges facing our natural resource district system revolves around the Republican River Compact with the state of Kansas and the ongoing litigation between our two states. It is difficult to properly understand the strain this water management situation has caused for the stakeholders and communities in this river basin. Compliance with the compact is the responsibility of the NRDs involved, but ultimately rests at the feet of the Legislature and

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the state of Nebraska, according to the arbitrator's ruling earlier this year. This issue, however, goes beyond any single river basin. Management of our water resources affects truly every Nebraskan from Scottsbluff to Omaha. We cannot afford to leave any stone unturned, in my judgment, nor any option unexplored as we endeavor to preserve and maintain our state's agriculture and overall economy. This interim study seeks to develop and examine one of those options. Changes have been made and will continue to be made in the march towards long-term compliance with our water compact responsibilities. We must be visionary in our thinking and willing to look at long range solutions to this very complex and multifaceted situation. I look forward to the discussion that we've already started and will continue to have and the ideas and thoughts that hopefully it will foster. We can find the right solutions to the problem before us if we're willing to work together cooperatively with that can-do spirit that has been talked about this morning. Thank you. [LR181]

SENATOR LANGEMEIER: Thank you very much. Are there any questions for Senator McCoy? Seeing none, we're going to ask that Steve Chick come up and testify, then we'll open it up. Welcome to the committee. [LR181]

STEVE CHICK: (Exhibits 15-17) Thank you, Senator Langemeier and other senators. Appreciate the opportunity to speak to you. Before I start, I'd like to point out there's a couple of hand... [LR181]

SENATOR LANGEMEIER: I need your name. [LR181]

STEVE CHICK: Oh, I'm sorry. Steve Chick, and it's C-h-i-c-k, state conservationist for USDA's Natural Resources Conservation Service, spelled just like the bird, C-h-i-c-k. [LR181]

SENATOR LANGEMEIER: Thank you. [LR181]

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STEVE CHICK: There should be some handouts in front of you. So I just show those to you, make sure you have them. They would be my statement and this handout and then this map. And I'll refer to those as I go through my testimony. In 1935, the Soil Conservation Service was created within the United States Department of Agriculture to provide assistance to farmers and ranchers to address natural resource concerns. Chief Hugh Hammond Bennett, at the time, recognized that a federal agency needed a local conduit to deliver assistance to local landowners. In 1937, President Roosevelt signed enabling legislation allowing the creation of local conservation districts. Within a few years, the country was blanketed with nearly 3,000 county-based conservation districts. Conservation districts, as you know, provide leadership through locally elected boards who establish the priorities for soil, water and related natural resource concerns. Districts were encouraged to leverage the federal efforts in any way that they could. As you know, in 1972, traditional county-based conservation districts were into watershed-based natural resource districts in Nebraska. All other states, as far as I know, continue today to operate as county-based conservation districts. In the mid-1990's, Nebraska NRCS, formerly the Soil Conservation Service, reorganized from a county-based approach to 23 administrative boundaries to align with NRD boundaries. And that would be the map that I shared with you, this map, shows the alignment of our boundaries that are very close to NRD boundaries. NRCS established one district conservationist per NRD with all the NRCS employees in our 77 field offices reporting to those district conservationists. Within Nebraska we allocate our 200 field employees and our \$50 million, on average, in annual cost share funds by NRD. NRDs provide our 77 field office district secretaries and in some cases district technicians to help take full advantage of USDA conservation programs. NRCS provides the technical assistance for the state and local cost share funds administered by the NRDs. In addition, NRCS-NRDs share many cooperative agreements for providing additional technical assistance. Following a tour last week in Nebraska by our NRCS regional conservationist, Tom Christensen, he reported to the chief of NRCS that NRCS is one of the best operations he has seen in his 30-year career, and he specifically cited the NRD-NRCS partnership as being the strength of that operations. In summary, the NRD

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watershed approach is the envy of all other NRCS state conservationists in this country and most conservation districts. The NRD-NRCS partnership leverage each other's resources. And the NRCS organizational structure along NRD boundaries creates, in my opinion, the most effective and efficient delivery system in this country. I'd gladly take some questions from the committee. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Chick? Seeing none...oh, Senator Carlson. [LR181]

SENATOR CARLSON: Thank you, Senator Langemeier. Steve, in talking about this partnership, would you just maybe tell a little bit about what's happened in the last few months in Nebraska. [LR181]

STEVE CHICK: I think Senator Carlson is referring to probably the Conservation Cooperative Partnership Initiative that we worked on in concert with state and the NRDs. We provided about \$1.5 million in funding this year through that program for invasive species control. And it blended in really well with the efforts that the state was making. It's just another example of how we partner together. We actually ended up receiving \$2.9 million in requests for invasive species control along, primarily along riparian areas in the fully appropriated and over appropriated watersheds. We were able to get some additional funds from other states, so we ended up funding a little over \$1.6 million for that purpose in long-term contracts to manage those invasive species. That's just an example of the kind of partnership that we have with the state and the NRDs. [LR181]

SENATOR CARLSON: Well, thank you. I appreciate your efforts on that. And if there hadn't been cooperation it wouldn't have happened. And the fact that some of the money there came from other states who didn't really have their act together proves that it's important that we had ours together, and you're a big part of that and I thank you for it. [LR181]

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STEVE CHICK: I can cite one other example. There's a new program, it's called AWEP, it's Agricultural Water Enhancement Program, 189 project proposals were submitted around the nation primarily for water, quality of water conservation projects. Nineteen of those proposals came from Nebraska and we ended up getting five of those funded, second only to California in number of projects funded. Those are again local projects working with the NRDs, primarily in our case, to work on conservation...water conservation to convert from irrigated to dryland and more efficient irrigation practices. [LR181]

SENATOR CARLSON: Okay, thank you. [LR181]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much. [LR181]

STEVE CHICK: Thank you. [LR181]

SENATOR LANGEMEIER: Thank you very much for your testimony. I'll open it up to further testimony on LR181. Welcome. [LR181]

MIKE DOBESH: Hello. Thank you for giving me the time. My name is Mike Dobesh, M-i-k-e D-o-b-e-s-h. I'm from Wood River, Nebraska, 68883. I'm here on my own behalf, as well as I'm an elected director of the Central Platte NRD. Although maybe some of my views may not always be all of theirs, but anyway. Ladies and gentlemen of the Natural Resources Committee, we are here today to discuss the idea combining the NRD districts. First of all, let's examine the advantages of leaving things as they are. Programs and activities are primarily locally funded by local property tax dollars, thus the thought of combining NRDs would save tax dollars is false. Two directors located in each of the subdistricts allows for people in those subdistricts to know their directors. Thus it makes it easier for them to be contacted over concerns in the district. As it is

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now, someone waiting or wanting to address a board may have to drive an hour or so to the meeting, but that's still reasonably a close drive. With the many districts address local issues, they implement programs that deal with water quality and quantity and we deal with issues with compliance and regulation, not to mention the many cost share programs that benefit local producers. With the many districts we have now it's easier to deal with issues that are unique to each of our areas and enact regulations that fairly regulate those that need regulation and not impose regulations that do not. Even at times our areas are too big as how ridiculous is it that we are considered fully appropriated in the Grand Island area, yet Grand Island has considered "dewatering" the city of Grand Island to the tune of over \$12 million. The Republican districts are the best example of this. As the water table in the Lower Republican has not varied more than four feet in 40 years, but the water table in the Upper Republican continues to drop, with the Middle Republican somewhere in between. Our district works with producers on a daily basis for a wide variety of reasons. Not counting the other committee meetings we have, our regular meeting may take an afternoon or maybe the major part of a day with just our local issues. If we combine the NRDs, it would take two- to three-day meetings may be required to address all the issues that need to be dealt with. And since we are not career politicians, we cannot afford to be away from our jobs for that length of time. Having actual producers on the board is very important as they are in touch with reality, know what's really going on, and haven't bought into the environmentalist's agenda that is frequently preached in the Omaha World-Herald and the Lincoln Journal Star. A large portion of Nebraska's fully or over appropriated NRD districts have absolutely nothing to do with the water table or sound science from studies being done but pure politics. LB962 was passed because the state government felt that something had to be done. The Platte River recovery was signed because the Governor lost his stomach to fight for its people, just as he has now in the Republican Districts. It will be virtually impossible to provide all the program services and carry out all the compliance issues connected with variances, water banking, inspecting chemigation systems, as well as addressing all the other issues which we previously weren't responsible for. It would be easier for someone against irrigation, like the

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Governor, who may declare areas fully appropriated when they shouldn't be, like the Lower Loup, Lower Platte and Elkhorn districts that were proven to be not fully appropriated, which makes one wonder, how many other unfounded claims has the DNR made? It would force producers to drive for hours to conduct business at our office. It would be hard to regulate fairly when conditions at one end of the district are vastly different than the other end. When the FSA offices consolidated it was bad for them and it will be bad for us. Our NRD districts are the envy of neighboring states, so why try and fix something that isn't broken. This isn't a sentiment from taxpayers on the way up but rather those who have no conscience and are frustrated because they can't control us as they wish they could. The Governor has made the comment to more than one NRD manager that we better change our tune or with a few votes we could be done away with. This isn't a very good atmosphere to work in. Some time back, I had a conversation with a state senator as well as Todd Sneller, the state Ethanol Board director, about my concerns on the Platte River recovery, as well as facts I had learned that might be helpful in combatting that unneeded program. Together they were going to meet with the Governor to present reasons for pulling out of the program. I phoned both their offices to find out the outcome. Since that time, neither of them will return my phone calls. And when I ask their staff about the meeting they have no knowledge of it. Obviously, the Governor told them never talk to me again. As you can see, I'm a pretty dangerous guy, and Mark Christensen can tell you that. (Laugh) My only ammunition is facts I have learned from the NRD hydrologists, Nebraska Game and Parks, a former U.S. Fish and Wildlife employee, the Whooping Crane Trust, Army Corps of Engineers, and a hydrologist in Colorado who specializes in forestry. There has been made the comment that ground water pumping should be shut off from Grand Island west. According to COHYST, shutting down irrigation only affects stream flow 2.4 percent. The hydrologist at Central Platte has told me, if you shut down all irrigation in our district, that would not guarantee to raise the level of the Platte River one inch. The executive director of the Whooping Crane Trust has told me that he "animately" disagrees with U.S. Fish and Wild Life over how much water should be in the river. In fact, they won't even tell him how they come up with their figures. Reducing irrigation in

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this magnitude would devastate our economy, put thousands of producers and agri-businessmen out of business, as well as severely damage the banking and finance institutions. In most cases, large blue stem, the native grass that blanketed Nebraska, have the same consumptive use as irrigated corn. So does that mean when the Indians occupied the prairies we were fully appropriated? If this were true, I guess that explains the disappearance of the Indians as the state DNR must have run them off for not providing offsets. (Laughter) In closing, we must remember that it's government by and for the people, through irrigation and ever-improving farming practices the farmer has turned the Great American Desert into the productive farmland with a robust ag economy that is the envy of other states. In fact, in 2003, Charles Lamphere did a study that shows that the economic impact of irrigation was \$4.5 billion. To put that into perspective, it would have been \$2,646 for every man, woman and child in the state in 2003. Purchases of irrigation equipment, farm machinery and computer software by irrigators generated a total economic impact of \$293 million and created over 3,200 jobs in 2003. How many other industries in Nebraska can say that? Central Power and other entities have no authority over ground water irrigation, just as we have no authority over them. To use the scapegoat of a drought is a laugh. By implementing the occupation tax as a safety valve during times of drought we can augment flows to the Republican or to the Platte River to stay in compliance without shutting down irrigation, which would force farmers out of business as well as devastate local economies. There are those entities, such as Central Power and Irrigation, DNR, NPPD, as well as the Governor who wouldn't bat an eye shutting down irrigation for selfish or political reasons, even if it meant producers going broke and potentially devastating local communities. Even though these folks have broken no laws, been good stewards of the land, and added to the state's economy, please do not change our present system. And I have one final thought. [LR181]

SENATOR LANGEMEIER: You're past your time, so be quick. [LR181]

MIKE DOBESH: Oh, sorry. There was a mention earlier about highly erodible lands,

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what's interesting is in the eastern part of the state where they do not need irrigation, you can develop any type of land you wish. But if you're irrigating it they do not allow transferring water to Class VI soils, which are highly erodible. And if you have grandfathered in high erodible soil, Soil Conservation has a list of rules and regulations that you must abide by. And they will spot check you. And you can also lose your government payment and permission to use water. But the thing of it is if we don't allow, what do you call it, transferring water to Class VI soils, dryland corn on Class VI soils, you cannot have enough residue to meet their criteria. But if you allow the transfer of water then you will...irrigated corn does have enough. But that's just my personal opinion. I wanted to share that with you. Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Dobesh? Seeing none, thank you very much. [LR181]

MIKE DOBESH: Thank you. [LR181]

SENATOR LANGEMEIER: And drive safely back to the combine, as he told me he was going back to combine. [LR181]

MIKE DOBESH: Yeah, yep. [LR181]

SENATOR LANGEMEIER: Further testimony? Welcome. [LR181]

RODALE EMKEN: I was hoping I'd get here this morning so I could say good morning. (Laugh) [LR181]

_____ : It still is. [LR181]

SENATOR LANGEMEIER: We've got ten minutes. [LR181]

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RODALE EMKEN: We'll make it. Well, I'm Rodale Emken, R-o-d-a-l-e E-m-k-e-n. I'm a former county supervisor from Phelps County. And I'm here today to tell you about cooperation between Phelps County and our local NRD facilities. About 12 years ago, Phelps County lost their weed superintendent, a position which was not really full-time, but in order to keep someone in that position had to make it full-time. At that time, I was approached by John Thorburn, head of the Tri-Basin NRD, about sharing this position with them, as they needed someone halftime for their tree program and other duties and thought it would be a good fit with sharing with Phelps County's weed program. We got together several times and worked out the details. And they filled this position and billed Phelps County for half his salary and benefits each month. This has worked out really well. And this position is still in place today. By sharing this position with the NRD over 12 years it has been a savings of approximately \$15,000 a year, totalling \$182,000 in salary and Phelps County and the taxpayers. Phelps County has always had a good working relationship with the NRD regarding their water issues we have had and maintain county roads and bridges, which can be a real problem when it rains too much. I'd be happy to answer any questions you might have regarding this arrangement. And I thank you for your time today. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Christensen, oh Carlson, excuse me. He's going to have a question, trust me. (Laughter) Senator Carlson. [LR181]

SENATOR CARLSON: Thank you, Senator Langemeier. And, Rodale, thank you for being here to testify today. Review a little bit again the fact that you cooperated on filling a full position and what kind of tax savings did that involve and apparently, obviously over time the position has still be effective, even though it's a shared position. [LR181]

RODALE EMKEN: Yes. Well, basically, what happened NRD took over the position. And we contract with them for halftime and we reimburse them for their labor and the benefits and so forth that go with it. We furnish a pickup for the Weed Department, they

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furnish a pickup for their other side. And the county pays for all the weed stuff and the spraying and this sort of thing, which is part of our budget. But it's basically just a salary that is contracted with them. So gives a full-time job, you might say, throughout the whole year at a cost savings to both of us. [LR181]

SENATOR CARLSON: Okay, thank you. [LR181]

SENATOR LANGEMEIER: Senator Christensen, do you have one question since I recognized you? [LR181]

SENATOR CHRISTENSEN: No. [LR181]

SENATOR LANGEMEIER: No? No question. (Laugh) Okay. Seeing no other questions, thank you very much for your testimony. [LR181]

RODALE EMKEN: You're welcome. Thank you for letting me be here today. [LR181]

SENATOR LANGEMEIER: We appreciate it. Further testimony on LR181. Mr. Cappel, welcome. [LR181]

CLAUDE CAPPEL: Senator Langemeier, members of the committee, my name is Claude Cappel, C-l-a-u-d-e C-a-p-p-e-l. I'd sent in stuff earlier on our Water Policy Task Force. But I just had a thing since this Republican issue come up. I don't know if the NRDs want more authority or not, but they better think about some of the ramifications that will come from the over development. The cutbacks will come from meeting court orders. I've seen the ugliness that comes from reduction in allotments or changes in rules and regulation. Without state legislative mandates or rules or regulations, requirements, reason goes out the window. The ones who holler the loudest are the most likely to win. The other concern is, which in most cases of water, board members generally have a financial interest in the outcome of their vote or with their vote. It

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becomes really hard to vote for or against something that you really have a vested interest in. Another problem, I guess, the NRDs face and the state faces is that there's been at least three bills, LB375 in '82, LB108 in '96, and LB375 in 2004, that basically needed sufficient funding that never came. This has caused additional problems probably. Funding has been a problem that's been addressed here today earlier. Basically, when LB375, in 1982, was passed to allow depletion of the aquifer, correlative rights was supposed to be a limiting factor. The Legislature never did pass any bill that provided any avenue to enforce correlative rights or make it so it could be enforced even though it's still in the statutes as a requirement. Now we're to the point that there's not enough water to meet the state compact requirement. I know no statutes that the NRDs have violated or allowed something they should have done wrong in (inaudible). I never heard or seen anything where state government required the NRDs to meet a compact requirement or meet the compact requirement. There was a time...it was if they did anything it would show a sign of weakness back when Kansas started suing or was suing. Now it sounds like the state government is going to require 300,000 acres to be shut off in water short years with no compensation. It sounds like the NRDs could possibly have a decision on how to meet the requirements. In the Middle Republican I can see each NRD could have a different solution. It's just a question of who's ox is going to get gored. The Legislature could require correlative rights where each NRD in relation to their depletion to share shortages equally by giving each irrigator in a particular NRD the same allotment, treat everybody equal as this (inaudible) says. The Legislature sets mandates, rules and regulations for county commissioners, county assessors, law enforcement, etcetera. My opinion is the Legislature needs to set water rules and mandates like they do for other state agencies and let the NRDs police and carry out the Legislature's requirements. Thank you.
[LR181]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Cappel? Senator Christensen. (Laughter) I had to try it. I wanted to see what your reaction would be. Senator Carlson. [LR181]

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SENATOR CARLSON: Thank you, Senator Langemeier. Claude, I know you've got disagreements with how you see NRDs carrying out their function. But I have trouble that...believing that there's a better system to elect a board to carry out a function. And you indicate part of your criticism is that every board member has a self-interest in...that's on an NRD board. Well, what kind of a board would it be if we...we don't want this, I don't think, if we had a requirement that everybody that runs for an NRD board cannot own any land, cannot have any interest in irrigation, cannot have any property on a river where they're concerned about natural resources and so forth and conservation. If there's no self-interest in there, how effective would they be on a board?
[LR181]

CLAUDE CAPPEL: I'm not saying that, Senator. I think what you got is the way it is now. What I'm saying is like a county assessor or county commissioner, they cannot go out there in the county and set the levy for the taxes. If you had them where they could do their own thing, you could put all farmers on there, they'd tax the heck out of city people, etcetera. Somewhere here the Legislature has to set rules. In the statutes almost all the rules are "may" or "intend" or things like that. I think there's only four "shall's" in the main part of the body. And the NRDs pick out these rules. In the Middle Republican we are elected at-large. Basically, the upland irrigators control the district. I can see this next time it's going to go to the area down in the quick response. The whole attitude will change. Upper Republican is elected by precincts or however they call that. The people over along the Republican River have virtually no vote, where the people over in the other part control the thing. It's a problem, you know, it's a problem. I'm not saying there's going to be a solution for it that's easy. But I think in some way the Legislature has to take control of the water and then let them decide what, you know, how to police it. [LR181]

SENATOR CARLSON: Well, I think in the time that I've gotten acquainted with you I know that your frustrated with problems that you see exist. I even agree with you on

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what the problems are, but probably not in the way you go about coming to solution. You've apparently crossed the bridge that it's okay with you if regulations for NRDs are dictated from a position at the state level. [LR181]

CLAUDE CAPPEL: I don't know if they need to be dictated. But if you go back to the past and said, we've got to be sustainable, you know, somewhere here you've got to balance the water. That would have been a lot better solution, even (inaudible) would be a better solution. They're talking, you know, they tried putting the tax on the occupational tax. I know from the studies and looking back to history and stuff where we got the Upper Republican basically has supplied all the water. And if you look at the studies done in '76, '78 and '95, it showed ground water percolated most of the water into the streams, almost all of it predominantly is what they say. So if you get up there, each NRD...I kind of lost my train of thought. But it's just somewhere it's got to be where the state sets a rule and stuff. If you go ahead and let the NRDs keep on pumping water, why you tax the people that are going to get shut off. And I know, in looking at the charts...look at the dam charts, that we will not have water. Basically, we'll be shut off most of the time on a quick response. I really don't know what the answer is. I think that's part of your answer, but I can see being a quick response irrigator or anywhere close to the stream, because quick response has no boundaries. I mean, it can be extended out further and further as you need to. [LR181]

SENATOR CARLSON: You believe in correlative rights. [LR181]

CLAUDE CAPPEL: Yes, I do. [LR181]

SENATOR CARLSON: So do I. If you were king, what would your rules be for the basin next year? [LR181]

CLAUDE CAPPEL: Next year, I would say each NRD has a specific depletion amount as set by the...the way they are now. Each NRD would do whatever it takes to meet the

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compact. I think Roger Patterson told me at different times that Kansas has 400,000 acres and has 40 percent of the water. Nebraska has 49 percent and 1.2 million. Kansas gets 18 inches, we'd have to go back to some number of inches that we could use. I don't know what that number is. I've seen all the way from 5 to 7. But basically, you would set an allotment of 5 or 7. We'd learn how to work with it. On our farm, we've got about 14, 15 inches of carryover now, over a period of years. Basically, we have 4,000 acres irrigated. We got 6,200 acres of carryover at the end of this year. It's worth a lot of money to sell. I don't want to sell it, because it's cutting my own throat. It goes up to areas that will take it out. [LR181]

SENATOR CARLSON: Okay, if you had the ability to make that decision and the power to make that decision, you'd be 5 to 7 inches. [LR181]

CLAUDE CAPPEL: Yes. [LR181]

SENATOR CARLSON: You wouldn't be at zero for anybody, would you? [LR181]

CLAUDE CAPPEL: No. Everybody would be treated equal. [LR181]

SENATOR CARLSON: And yet if a central authority is able to make decisions for the whole state, that's the kind of decision we may well have. [LR181]

CLAUDE CAPPEL: It's probably fair. Fairest that you're going to get when you start shutting down people. [LR181]

SENATOR CARLSON: It's fair to put somebody to zero? [LR181]

CLAUDE CAPPEL: No, not zero. [LR181]

SENATOR CARLSON: No, I didn't think so. [LR181]

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CLAUDE CAPPEL: Well, I thought you said everybody shares equal. [LR181]

SENATOR CARLSON: I'm agreeing with you on correlative rights. But if you were the king, you'd have an allocation between 5 and 7 inches. That's one person making a decision. And if we centralize decision making so that one person, in fact, in the state can make the decision, that well might be zero. You don't like that decision, and I don't like it either. [LR181]

CLAUDE CAPPEL: If it would be zero for that well, it'd be everybody's well would be zero. [LR181]

SENATOR CARLSON: But that's not the way it works, unfortunately, and that's why it's important that we have local control, so that, hopefully, we've got a balance of input there that we don't reach that decision. [LR181]

CLAUDE CAPPEL: I believe in local control; I really do. But there again, they have to have some...to me, it's like counting a census; you just can't go out here and let each one, or everybody, make their own rules out there. And NRDs can make their own rules. That's the problem I see. I don't know... [LR181]

SENATOR CARLSON: Okay. All right. Thank you. [LR181]

CLAUDE CAPPEL: Okay. [LR181]

SENATOR LANGEMEIER: Other questions? Senator Dubas. [LR181]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Cappel, for being here. I'm hearing this from other people too. If you could change the election process, how...would you change the election process for NRD board members? Is there a way

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you could get a more balanced representation? [LR181]

CLAUDE CAPPEL: It could work...it works bad both ways. I'd look into our district, probably we would have, out of the whatever board members there are, probably there'd only be two from outside of the counties right along the river--Red Willow and Hitchcock. So it can...it would work the opposite way. I don't know...I just don't... [LR181]

SENATOR DUBAS: So there's not necessarily a better way of doing the election process to try to get... [LR181]

CLAUDE CAPPEL: Probably not. [LR181]

SENATOR DUBAS: ...a different type of representation on the boards. I mean, you know, it's an election process, so basically anybody that wants to run can run. Is that correct? [LR181]

CLAUDE CAPPEL: Right. [LR181]

SENATOR DUBAS: And so it's just maybe getting more people interested and willing to step up to the plate and serve in this capacity to get different viewpoints represented. [LR181]

CLAUDE CAPPEL: Basically, we have the viewpoint like I have in the basin, you're not going to get elected to the NRD board. Well, maybe now, but...(laughter) [LR181]

SENATOR DUBAS: I hear you. It's all about politics. Thank you very much. [LR181]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much, Mr. Cappel. [LR181]

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CLAUDE CAPPEL: Thank you. [LR181]

SENATOR LANGEMEIER: Further testimony. Come on up. They're not going to run you down from behind. [LR181]

DEAN EDSON: I got somebody running me down. [LR181]

SENATOR LANGEMEIER: You kind of had that look, like... []

DEAN EDSON: I'm looking for some assistance here. []

SENATOR LANGEMEIER: Okay. Okay. []

DEAN EDSON: (Exhibits 18 and 19) Senator Langemeier and members of the committee and other senators here joining us today, my name is Dean Edson, spelled D-e-a-n E-d-s-o-n, and I'm the executive director for the Nebraska Association of Resources Districts. I have some packets of information--just hand them to the clerk there; she'll take care of them. I'm providing each one of you a copy of a resource booklet on all the NRDs and the NRD programs for your information. And I'm not going to go through the entire book, but I'm going to go through quickly what's in the booklet. And you can take a look at that information at your leisure and ask questions of me after I'm completed here. I also have another letter that I want to provide to you that came from the U.S. Army Corps of Engineers in Washington, D.C. Mr. Larry Prather, assistant director of civil works, out of Washington, D.C., sent me a letter and requested that it be placed as part of the record. He's provided some information about a paper entitled "A History of the United States Water Resources Planning and Development" by Warren Veissman Jr., associate dean, College of Engineering, University of Florida. And in that, there's an attachment to that of part of that paper that talks about how two states are considered to be the leaders in addressing water problems. And that is the state of

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Nebraska with its NRD system and the state of Florida with its Water Management Districts. And also Larry goes on to explain the partnerships that we have with the Corps of Engineers on a lot of projects in Nebraska and the requirement of having local sponsors. Over to the booklet--first of all, what we have in there is contact information for each one of the NRD offices, so you can contact the managers there as well. I've included our Nebraska Association of Resources Districts board member list, so you can feel free to contact any one of those. Also, in that first tab is how the district directors are elected and what the subdistrict ratios are if they're elected by subdistrict. So you can take a look at that at your leisure. What I also have in there is the 2008 ground water management summary by district. And this one--it was last updated in December of 2008; we're going to update another one in December of 2009 that will reflect the changes done with 483 last year and where the districts are at. That summary also provides you a time line of major legislation passed dealing with water management, so you can see when authorities were granted to NRDs as far as moratoriums and other water management activities and authorizations that they were granted. Also included in here is the information sheets on each one of the NRDs. There's one in general for all of the NRDs, and then each one of the river basins is broken down too. So if you have a particular interest in a river basin, you can go to that tab, and then there's the top three projects that they're working on in that district in those information sheets. Also included in this is a tab on the development fund--the Natural (sic) Resources Development Fund--and the projects that we're sponsoring at the local level and what dollars are involved in it, what the projects are, a one-page summary of each one of the projects. Toward the back of the book, what is the last thing that's in that booklet in the back is our property tax information, and this was collected by the Nebraska Department of Revenue. It provides you tax information by political subdivision, and so you can compare the districts to all other political subdivisions. I've provided the one-page sheet; there is about a 85-page report that's available online, too, that you can get to break out that tax further if you want to. I took that information from the one-page sheet and provided a graph for you to show what the NRDs' tax increases were last year. And what this shows is that we've decreased property tax

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asking by 2.1 percent in 2008 and 2009. The state average change...increase in property tax was about a 5.5 percent increase. The last chart in here gives you a pie chart to tell you what the breakdown is of property taxes; and for NRDs, we collect 1.9 percent of the property taxes--of all property taxes collected in the state. Inside your folder is another piece of information that includes a map of the NRDs in the center and then more information about specific programs that each NRD may undertake. With that, I will try to close. There will be other districts that will follow me--individual districts--and they can answer specific questions about their district projects. And I wanted to give you this general information and then answer any questions you may have. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LR181]

SENATOR HAAR: Thank you. Just for the record, if any of you saw an exchange of money between Dean and me in the back, he was loaning me a quarter for...to buy a pop (laughter)--but charging me 50 percent interest per day. So thank you very much. [LR181]

DEAN EDSON: I also loaned a pen to another state senator, and that's all going to get recorded on...(laughter)... [LR181]

SENATOR UTTER: I'd like (inaudible). [LR181]

DEAN EDSON: ...but it's all going to get reported on my Accountability and Disclosure forms. [LR181]

SENATOR HAAR: But seriously, I'm fascinated by...who determined the number of board members per NRD? Who, and when was that done? [LR181]

DEAN EDSON: That...I looked back at the history of that. And when they merged the

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districts back in--the 154 political subdivisions in 1972. At that time there was up to 49 members were allowed on an NRD. And the state came in...or state law got changed to reduce that number but to allow the districts to choose between 6 and 21 board members. And then they could divide it up on sub-basin... [LR181]

SENATOR HAAR: Um-hum. [LR181]

DEAN EDSON: ...and they could do their...allow for an at-large position. So that was done, probably, way back in the early '70s... [LR181]

SENATOR HAAR: Um-hum. [LR181]

DEAN EDSON: And then the districts choose how to do that. [LR181]

SENATOR HAAR: And I know some of them changed the number of board members. Didn't that happen in the Papio-Missouri, that they increased the number, I think? [LR181]

DEAN EDSON: I don't know for sure on that. [LR181]

SENATOR HAAR: Okay. [LR181]

DEAN EDSON: I know John Winkler is going to testify here following me... [LR181]

SENATOR HAAR: I can ask him that too. []

DEAN EDSON: ...and you can ask him about that. []

SENATOR HAAR: Okay. And thanks for the loan. [LR181]

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DEAN EDSON: Okay, yeah. [LR181]

SENATOR LANGEMEIER: Other questions? Seeing none, thank you very much for your testimony. [LR181]

DEAN EDSON: Thank you. [LR181]

SENATOR LANGEMEIER: Further testimony on LR 181? Mr. Paulman, welcome back. [LR181]

RORIC PAULMAN: Roric Paulman, R-o-r-i-c P-a-u-l-m-a-n, testifying for myself. Thank you again for the opportunity, Senator Langemeier and senators, as a former board member of the Twin Platte NRD and, as I've stated before, a stakeholder in the IMP process for that district and also for the overappropriated portion of the Platte basin from border to border. And what we're talking about here is education and a steep learning curve. And everything that we're talking about here: whether it's appropriate or whether we have the right mix of people--and I guess I look at it...Senator Carlson stated: the democratic way. And whether it's a school board or whether it's a hospital board, which I'm also on--the second-largest employer in Lincoln County--but when you enter that, it has a level...when you commit to that, it has a level of education that each and every one of us as Nebraskans I think has a responsibility to. And you do go in with some ideas, and that's why you run for that board. And when we get to that point, I got my eyes woke up. But I'll tell you that in the IMP process, as stakeholders, the board was absolutely adamant about the mix. There was municipalities; there was bankers; there was an HR representative from the hospital. There was a whole myriad of people. And the same with the OA basin level. That was a huge group; in fact, it was difficult to get anything done. I'm not a consensus builder; I determined that as a result of that process I'm not...it's tough for me to be in a consensus-building process. But they came from everywhere. And I have developed some relationships with the Game and Parks and people that we've kind of trashed today in reference to our own local NRDs. And they've

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done a good job. They have a huge task in front of them. And again, the level of indoctrination and education is huge. And I enjoyed that, but I also felt I got off the NRD board because I wasn't sure that we could talk about what needed to be done at the level that I've brought to you in the last two days could be accomplished at the NRD. And that's okay. And I moved off and out of that position to accomplish that goal. It was a different level of education; it was a different direction. So in every piece of this, it's more about education. I'm opposed to spending a lot of time on this. It's a good system. Steve Chick did a great job. I work with the NRCS. The municipalities work with the NRCS. Everybody has an opportunity to work with those interlocal agreements. It isn't exclusive to agriculture. It's a process that is great. You have the same opportunity to get a tree in town through the NRD as you do as an agricultural person or as a rancher or any other person or constituent or taxpayer in that district. You have equal access. And it drives you, whether you want to be there or not and whether you want to take the time and the effort to get that kind of education. That's really all I have to add. The single thing that bothers me the most is the North Platte World-Herald (sic) ran an article--and I'm not that kind of person, but I've taken about all I can stand with remarks about local control and specifically people that are in our district that I felt we were supposed to be working with. I'm not going to name names; it's in the newsprint: North Platte officials consider revamping Natural Resources Districts. And there's comments in there that I think are inappropriate. I thought that we're in this as one, that we're in this for a resolution, and we can do it together. And in my relationship and my partnership in the overappropriated as a stakeholder, that wasn't the case always, that there was always something behind that drove a wedge between surface and ground water and consistently surface and ground water. Little statements--or we'd go outside the realms of what we were charged with, and that to me was a single disappointment, was that inability to reconcile the differences between surface and ground water. And I really--in particular one outfit but not all of them but in particular one outfit. Thank you. With that, I'd entertain any questions. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Paulman?

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[LR181]

RORIC PAULMAN: Thank you. [LR181]

SENATOR LANGEMEIER: Seeing none, thank you very much. Further testimony?
[LR181]

RON BISHOP: (Exhibits 20 and 21) Chairman Langemeir and members of the committee, I'm Ron Bishop, B-i-s-h-o-p, manager of the Central Platte Natural Resources District, and I won't take a lot of your time by reading all of my testimony. I have a copy of it for you. I'll go through and try to summarize. In addition to my testimony, though, I brought a letter from Marlan Ferguson, who is the executive director (sic) for the Grand Island Area Economic Development, that he wanted to share with you. Over the 40-plus years that Central Platte NRD has been in existence, we've carried out numerous projects and programs that have been critical to the health, safety, and well-being of the people and natural resources of the Platte Basin and the state of Nebraska. The success of those projects and programs is due in large part to the strong personal relationships and trust that have been developed between the NRD staff, board, and local landowners, local municipalities, local county boards, and local public in general. The NRDs are large enough to get the job done but small enough to be able to develop and maintain those strong personal relationships and level of trust that are so important to the success of the projects that ensure the well-being of the basin, its people, and its resources. I'd like to just give you a few examples. One is the Platte River Recovery Program. The state of Nebraska joined in with the other two states and the Department of the Interior. That project that the state committed to--we've got a significant role in carrying out that project--that project calls for acquisition of 130,000 to 150,000 acre-feet of water in the first 13-year increment, to put back in the river at critical times. Some of that water is already there; it just comes at the wrong times. Some of that water isn't there; it is going to have to be acquired. And so we've got a program that we've joined with the state of Nebraska, and our partners are the

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Department of Natural Resources, the Game and Parks Commission, and the five NRDs in the basin. And through that program--we call it PBHEP, Platte Basin Habitat Improvement (sic) Program--we got a grant from the Environmental Trust. And with that grant money--which amounts to about \$1 million a year, plus \$2 million from the state and \$2 million from the Natural Resources Districts--we're going to go out and acquire from willing sellers and willing buyers the water rights that we need to get us in compliance with the requirements of that Platte River program that the state signed onto. So it's a cooperative effort between the states and the locals--Natural Resources Districts--to achieve the commitment that the state made in that Platte River Habitat program. The acquisition is going to be done by the Natural Resources Districts, and that's only possible because of that close working relationship and that level of trust that the NRDs have developed out there in the area. Another example is LB962. Through that program we were declared fully or, in part of the district, overappropriated. And we've had a suspension of drilling of new wells and development of new acres within the Natural Resources District. In order to fulfill the requirements, especially in the upper part, getting back to fully appropriated, we've developed a water bank. A water bank is what we call it; we're acquiring water rights from willing seller, willing buyer and doing it that way because we think we can do it a lot more economically that way, with less economic impact to the area, by working with willing sellers and acquiring it in the locations that do us the most good, where we get the biggest bang for the retirement of a single irrigated acre, which is generally close to the river. By doing it that way, we hope to not have to implement regulations that would spread it across a much larger area that would encompass some folks whose contribution to the river is even less from irrigation than it is close to the river. And so by doing it on a willing seller and choosing and picking where we do it, we can get the most water with less disruption to the ag economy. The U.S. department of Natural Resources Conservation Service has partnered with the water bank program in some of the USDA programs. We have a special EQIP program out there where we partner with USDA, and they pay to retire short-term irrigated lands, and then we come in and add to it with funds to make that temporary retirement a permanent retirement. Again, the success of that program

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depends upon the good working relationship that we have developed in the area. We've also got a ground water quality management program. We've had nitrate problems in the valley there for years. We have a working relationship with the 800-plus operators that farm within about a 700,000-acre area across the district that has nitrates at or above the 10 parts per million the Public Health Service says is the maximum safe level. We had, when we started, nitrate levels up to 60 parts per million there. But we've developed a good working relationship, and we have contact with each of those 800-plus operators in that problem area at least twice a year, sometimes a lot more often. And because of that close working relationship and those personal contacts twice a year, we've dropped nitrate levels from an average of about 19.5 parts per million down to 15 parts per million within that problem area since we started the program. The success of that program, though, is only due to the personal contact that we've had with those folks. In closing, I just...we've had a number of flood control projects and other activities, but the success of our program has been because of the local trust and the local cooperation that we have developed over time. If you were to choose--if the Legislature were to choose to make us a lot larger, my concern is that we would lose that local contact ability and that we would lose some of that close working relationship that we have not only with the individual producers but individual communities and leaders in the communities. And there would go some of the cooperation, and there would go some of the efficiencies. We're big enough now, 185 miles long--we're sitting close to the middle of our Natural Resources District. We run clear out to the other side of Gothenburg and clear down to Columbus on the east end. We're close enough now that I've toyed from time to time with the idea of setting up a suboffice in perhaps Lexington or somewhere in the western part of the district, because we're headquartered in Grand Island. But I have kept from making that recommendation to the board, because there's a lot of benefits from having the group in one location. If we were to be larger, there'd be no question we'd have to set up suboffices. And so while you may...by combining some NRDs, you may eliminate a manager's position, I would argue that to get the job done you wouldn't eliminate any of the other positions. But in the doing that, you would have the additional cost of additional office space and

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additional secretarial help in the other offices. And I'm a little hard-pressed to see any savings if you were to do the kind of job that I think needs to be done and is being done. With that, I'll stop, and maybe there's a question or two that I can try to answer. [LR181]

SENATOR LANGEMEIER: You bet. Are there any...Senator Dubas. [LR181]

SENATOR DUBAS: Senator Langemeier, thank you. Thank you, Mr. Bishop. Over the course of the last two days, we've taken a lot of testimony, and there's been a lot of ideas thrown out there. And there's been, maybe, some questions raised as to: Is it really the best economic decision to be taking irrigated ground out of production and, you know, converting it to dryland or whatever. And I know you have obtained quite a few acres in this buyout. [LR181]

RON BISHOP: Yes, we have. [LR181]

SENATOR DUBAS: Are these good, highly productive farms that are converting out of irrigation? Are these marginal lands? And do you think that it's economically a good decision? [LR181]

RON BISHOP: I think it's...we think it's an excellent decision, Senator. If we have to do it through regulation--and we're required by statute to get ourselves back to fully appropriated--we only have two choices: We either acquire the water for the offsets, or we regulate to get the water to move us back. And if we regulate, we have the correlative rights systems, where we try to treat everybody equal and fair. And so we have to include a group into that regulation and say: You have to cut back 5 percent or 8 percent or 10 percent, whatever it might be, to get the amount of water that you want. And in doing that, you're cutting back 8 percent on a farm that may only impact the river 25 percent as well as cutting back 8 percent on a guy whose pumping irrigates (sic)[?] the river and the water by 90 percent. And so you've got a whole mix of impacts from one blanket regulation. Where, this way we can go out and concentrate on the fellows

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that have the 90 percent impact or the 85 percent impact. And generally what we're finding, most of the stuff that we're getting is things like corners on center pivot. A guy wants to put in a center pivot, and he's thinking about putting in an underground sprinkler system or a seep system on the corners; he's thinking about stringing pipe and just irrigating it, but it's got a lot of point rows; it's very difficult. So rather than do that, he sells us the water rights off those three corners or four corners, whatever it is, that he might want to. In other cases, it's odd-shaped fields, where he's got a field where the highway or a railroad or a stream makes it an odd shape, and it doesn't lend itself well to a center pivot, and the rows are all different lengths. And so we end up buying the whole field in that case. So we've had all kinds of different...another example: A fellow was primarily cattle, and he had a lone 100 acres of irrigated land down in the valley, and he needed more pasture, especially for wintering stuff. And so he sold us the water rights off it and seeded it back to grass. And he was happy, and we were happy. And we got closer to getting back to fully appropriated. So there's all kinds of situations, but generally it's the stuff that fellows don't want to fool with irrigating, or they're odd-shaped and it's difficult to irrigate, or it's odd-shaped and it doesn't lend itself to a center pivot; and his operation would do better if he sold off the water rights, bought a piece, and put a center pivot on it, took care of it that way. [LR181]

SENATOR DUBAS: Thank you. [LR181]

SENATOR LANGEMEIER: Any other questions? Senator Hansen. [LR181]

SENATOR HANSEN: Thank you, Senator Langemeier. Ron, you mentioned that the district is 185 miles long. What's the population of the district? [LR181]

RON BISHOP: About 125,000 people. [LR181]

SENATOR HANSEN: Okay. With the advent of passage of LB962, when you were claimed to be overappropriated, how many wells went in? [LR181]

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RON BISHOP: How many wells went in? [LR181]

SENATOR HANSEN: How many new acres? How many wells? [LR181]

RON BISHOP: No new wells went in after we were declared...in fact, a year before we were declared fully appropriated, we put a ban on--at the request of the department. They felt that it was likely that our area was to be declared--at least the western part--overappropriated. Yeah. Sorry. [LR181]

SENATOR LANGEMEIER: They can't record you if you don't talk to our mike. [R181]

RON BISHOP: Yeah. So the director of the department of water resources came to our district and said: It looks like we may have to declare you overappropriated when 962 passes, and we think it's going to pass, and so we would like you to consider stopping new wells now so that you and us don't have a further road to go to get back to fully appropriated. []

SENATOR HANSEN: So there was no lag time in there where people could drill some wells. [R181]

RON BISHOP: No. Our district adopted that in--I think the ban went into effect in November the year before we were declared overappropriated. And so the only wells that went in after that time were replacement wells or wells where they provided offset to the river to offset what they were going to use and pump. And that's the only wells that have gone in since that time is wells that are offset, the depletion of the river is offset. [LR181]

SENATOR HANSEN: Thank you. [LR181]

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SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. Further testimony on LR181? Thank you. [LR181]

KENT MILLER: (Exhibit 22) Senator Langemeier, members of the committee, Senators, my name is Kent Miller, K-e-n-t M-i-l-l-e-r. I'm the general manager of the Twin Platte Natural Resources District. The Twin Platte Natural Resources District covers most...about two-thirds of Lincoln County, the city of North Platte, all of Keith County, the city of Ogallala, Arthur County, and the western two-thirds of McPherson County. I'm submitting for the record a letter that I provided to Senator McCoy dated September 3. I copied each of you at that time, but I still wanted to submit that letter for the record, and I do not plan to review that letter in my testimony today. The Twin Platte NRD board believes that local control of its own water should be maintained by the current 23 NRDs. If we were to combine the NRDs in the Platte River Basin, that would have an NRD stretching from the Missouri River to Wyoming. In essence, that would be state control. And we don't feel that that would reduce costs if current programs are kept in place; and, in fact, it may increase costs if you attempted to do that. In the Twin Platte NRD, we only have 11 employees. Each of these employees have their individual responsibility; we do not have duplication. We only have one person in our office who provides the office support in the accounting. Administratively, we essentially have one administrative person, and that's me, and I also have individual responsibilities that other employees do not have. So we're not duplicating responsibilities of employees within our office. It's a small operation, but we think it's an effective operation. What I wanted to focus on in that letter that I submitted to Senator McCoy and each of you was that...in regard to interlocal agreements. And I indicated in that letter that we have 21 interlocal agreements in place at this time. We are currently participating in...and examples of those--because what it points out is we are working together where we can. Anywhere we can, we want to work together, because that saves dollars; it saves personnel; and it...we can accomplish more by working together. Examples of that is all of the NRDs in the state work together for medical insurance for our employees. We have all 23 working for that. We have a ground water modeler in our office that's shared

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with the Tri-Basin NRD and the Central Platte NRD. There is the Cooperative Hydrology Study, which you guys have heard much about--the COHYST. That was put in place a number of years ago to develop the tools to deal with the management decisions we're dealing with today. And today that involves five NRDs as well as other agencies. We have an interlocal agreement in place in regard to the South Platte Compact, in looking at what opportunities there may be with that compact between Nebraska and Colorado, because there's provisions that are not currently implemented that I visited with you about yesterday. There's an interlocal agreement with all of the NRDs for purchasing trees, for tree-planting programs. That's just a small example of the 21 that we have in place now. The other that I wanted to point out to you is that even in addition to those interlocal cooperation agreements, NRDs almost daily have interaction in working with each other. Just as an example, just yesterday an employee of the Central Platte NRD was in our office working with staff in our office in regard to software that was developed with a grant that was funneled through the Central Platte NRD in regard to water banking. That software is being shared by other districts in the basin. That employee was in our office working with our staff as to how to use that software, Number 1--and Number 2, opportunities to improve that software. You know, we may see some things that we'd like to improve that software that we can share back. Those things happen every day in NRD offices across the state. So I just wanted to conclude: Yesterday I talked to you about my visit with the Arthur County commissioners in regard to raising our taxes. And they had been reading in the news media that this hearing was going to be held, that there was going to be discussions about consolidating NRDs. And those three county commissioners--and that's what I want to leave with you today--they said: You go down there and you tell those state senators: Leave the NRD structure alone; local control is good. And that's coming from a county of 600 people. Thank you.

[LR181]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Miller? Seeing none, thank you very much. Further testimony on LR181? [LR181]

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JOHN WINKLER: (Exhibit 23) Chairman Langemeier, members of the committee, and other senators in attendance, my name is John Winkler, J-o-h-n W-i-n-k-l-e-r. I am the general manager of the Papio-Missouri River NRD, located in Omaha, Nebraska. As always, I appreciate the opportunity before the committee to discuss issues of common interest here in the state. I have prepared testimony, but I'm not going to go through it. It's...mine is similar to the letter that I responded to Senator McCoy with our programs. There is a couple things I wanted to address, though: With efficiency and effectiveness of the NRDs and not only the NRDs themselves and among themselves, but also I believe we make our partners more efficient and effective. And you've heard previous testimony on our interlocal agreements and how we can leverage resources from other--either state or federal resources or local resources or foundation resources even. I've also, as part of your packet I've provided a budget expenditure breakout. There's some confusion sometimes on the Papio's budget, of what we actually spend funds on, so I thought I would provide this to you. It gives a breakout of the percentage of our funding and where our board directs the majority of our resources. I also brought a copy of our budget, which I supplied to every state senator in the state. Because after the bonding bill, it seemed like our budget was probably the most watched budget out there. So I had a copy of this, and I can answer any specific question you have on funding. This past September the Papio NRD board adopted a budget that lowered our property tax levy for the third consecutive year. Right now we're at 0.03275, which would mean the owner of a \$100,000 piece of property would pay \$2.72 a month in property taxes to the district. And this really became evident to me when I took my 9-year-old girls basketball team to McDonald's, and they all wanted Happy Meals. A Happy Meal is more than \$2.72, and so I...it kind of struck me as--we'll pay \$5 for a hamburger, but when it comes to protecting life, property, and our natural resources, \$2.72 seems a little high to some people. So I thought that that was kind of a...something I'd bring to your attention. A couple of the...also as part of this packet I brought--what we file with the state is a Report of Joint Public Agency and Interlocal Agreements. And the Papio NRD probably has either between 30 and 40 interlocal agreements per year, either ongoing or just a one-year type of agreement. And you can go through these, but they

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range from levee repairs to watershed management to flood plain management to addressing federal mandates like the Clean Water Act, flood control, wastewater treatment. It's a whole host of projects, and I listed them also in the letter. But one of the main issues, I believe, is we probably at the district leverage anywhere from \$3 to \$4 per every dollar of property taxes that we spend. And Steve Chick, I think, touched on it very clearly. The Corps of Engineers--we work very closely with them, but we work closely with our cities, our counties, our villages, our SIDs, our rural landowners. One instance is the village of Waterloo. And we talked about this during testimony on the bonding bill. They were approached by the Corps and FEMA that their levee was not meeting current standards, and if they didn't repair it or rehab it they would no longer be protected from a 100-year flood, and then the whole community would be required to buy flood insurance. It was about a \$4 million tab to do that. And that exceeded any resource that the community had. The community themselves could not even bond that amount. So obviously they came to the district, and they said: We need your assistance. Our board agreed to cost-share 50/50 with that community and provide \$2 million to bring that levee up into compliance. And also as part of that story is they approached the federal government for stimulus funds--none available. They approached the state of Nebraska for assistance; obviously none was available there. So without the Papio NRD structure--without the NRD structure--that community would have been \$2 million short on providing flood protection for their community. Another example, real quickly, is the Papillion Creek Watershed Partnership. We're partners with cities and counties in our district to meet the federal Clean Water Act. The Papio NRD provides not only services to those communities, as far as reviewing stormwater permits, but also we share staff, we share resources, we share equipment. And that's with all of our communities; that's with all of our other NRDs. Also weed management: We were not fully appropriated or overappropriated, but the NRDs--Lower Platte South, Lower Platte North, and the Papio--found it appropriate to begin to be proactive in attacking the invasive species in the lower Platte River, so we funded that ourselves. We worked with our counties to do that. Counties themselves--the weed control authorities--would not have the ability to even begin to approach that. Because of the interlocal agreements

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and the ability of the district to leverage resources together and as three or four of us, we were able to accomplish that. We're in the third year of the program; we're mechanically removing the invasive species now, clearing sandbars for not only habitat but also for flood prevention, and also to put more water back into the streams. So that will conclude my testimony, and I'll answer any questions that you might have. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Winkler?
[LR181]

JOHN WINKLER: To answer... [LR181]

SENATOR LANGEMEIER: Seeing... [LR181]

JOHN WINKLER: ...Senator Haar's question, our district originally had 21 directors, and then they went to a one-person, one-vote; and it's now 11. And they changed that before I was the general manager. So that's how it got to where...so currently we're at 11 directors. [LR181]

SENATOR HAAR: Okay. [LR181]

SENATOR LANGEMEIER: Are there any questions? Seeing none, thank you very much. [LR181]

JOHN WINKLER: Okay. Thank you. [LR181]

SENATOR LANGEMEIER: Further testimony on LR181? Just as a quick poll, how many more do we have to testify? Welcome. [LR181]

MIKE CLEMENTS: (Exhibits 24) Good afternoon. Senator Langemeier and members of the Natural Resources Committee, my name is Mike Clements, that's C-l-e-m-e-n-t-s.

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I'm the general manager of the Lower Republican Natural Resources District, and we're located in Alma, Nebraska, on the shoreline of beautiful Harlan County Reservoir. I'll try and keep my testimony brief. The NRD system is unique in Nebraska in that it offers local control to local issues that can vary greatly from one part of the state to another--or from one part of a river basin to another. The Republican basin is a perfect example. It not only stretches through two time zones but is nearly 250 miles long. The soil types, geology, climate, rainfall, and ground water levels vary greatly from one end of the basin to the other. The NRD system allows local districts to use local tax dollars to tailor plans to deal with specific local concerns, rather than using a blanketwide approach, as other states do. The Lower Republican NRD works very closely with a number of other districts across the state as well as numerous local, state, and federal agencies. We presently have 15 interlocal and joint agency agreements that range from controlling noxious and invasive weeds in the Republican River to sharing salaries for joint field office personnel. Many of the agreements allow for pool resources and joint participation by numerous partners. The end result is better utilization of funding for a common goal. The rural water project that we installed four years ago is a perfect example of numerous local, state, and federal agencies working together to achieve a common goal; and that was to provide safe and abundant drinking water for domestic and livestock use in the eastern end of the Republican River Basin. The Lower Republican rural water project is a success story that reaches 150 rural subscribers plus the community of Guide Rock. Water issues across the state are huge, and they are not going away. The NRDs in the Republican basin have stepped up to the plate by implementing integrated management plans nearly five years ago. Each district worked closely with the Department of Natural Resources to develop a plan that is tailored to the local area. Although the plans may be different in nature, the common goal is the same. I guess the message that I'm trying to convey is that the present system is working very well: Local control to deal with local issues for a common goal. Thanks for giving me the opportunity to speak, and I would be glad to answer any questions if I could. [LR181]

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SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Clements?
Seeing none. Welcome. [LR181]

DAVID SAALFELD: (Exhibit 25) Senator Langemeier, other members of the state Legislature, I want to thank you for the opportunity to speak to you today. My name is Dave Saalfeld, D-a-v-e S-a-a-l-f-e-l-d. I am the chair of the Lower Platte North Natural Resources District, located in Wahoo, Nebraska. My testimony is in opposition to LR181. You can often judge the value of an employee by the additional responsibility their boss places on them over time. This employee must perform outstanding work while maintaining quality output. The same can be said for political subdivisions. In 1969, the legislative vision of the NRDs was broad. Maurice Kramer and Nebraska saw a better, more efficient way of getting natural resources business accomplished. And when we began business in 1972, that vision was already expanded. But looking back, we now know we are just looking at the tip of the iceberg. In the early years, the NRDs began by taking over duties from county soil and water conservation districts and from local watershed districts. The locally elected board members were able to set priorities that matched the needs of their specific basins. These districts were the model of local efficiency and kept close contact statewide so programs were coordinated and good ideas could be replicated. As natural resources issues have arisen over the last 37 years, the Legislature has continued to look for local, efficient solutions. NRDs were quite often the solution for the problem at hand. Just like your star employee, I like to believe the NRDs have been repeatedly called upon due to our past history of performing these mandates in an efficient manner. Our general manager has submitted a letter to Senator McCoy--and that's one of the inserts that you have in the packet that was given to you--which introduces our district and outlines our most pressing projects and programs. I will not go over all these projects, but I have attached a copy of this letter to my testimony so it can be introduced for the record and for your review at a more convenient time. The points I would wish to add is our NRD is one of the smallest but one of the most busiest. Due to our location we have an active flood control program, heavy soil conservation needs; and one-third of our district is irrigated, and

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there is public demand for recreation. We are heavy users of interlocal agreements, with over 40 in place currently. Most of these agreements are to spread the funding and work for construction projects, studies, or to prevent duplication of services. Examples of non-public (sic) interlocal agreements include the Lower Platte River Corridor Alliance; that, of course, assists with environmental decisions. The Eastern Nebraska Water Resources Assessment deals with regional ground water assessments. The Platte River ice monitoring and blasting--monitor and prepare for dynamiting the ice jams when they occur. The Lower Platte riparian weed management for aerial spraying of invasive species. We are a shining example of leveraging property tax funds; our current budget is \$16 million and uses \$2.3 million of property tax for a 7-to-1 ratio. Without Lake Wanahoo--a very large construction project, by the way, that's going on--our ratio of outside dollars to property value (sic) still is greater than 4 to 1. We are an eastern Nebraska leader in ground water management. We have five stay management areas closed to irrigation expansion while the portion of our NRD that can sustain additional development remains open, truly through local control. We have two portions of our district that due to elevating nitrate levels have forced education and sampling by area producers, and we are the local watchdog for the Superfund cleanup at the Nebraska Ordnance Plant at Mead. The highlight of our projects is the \$30.5 million Sand Creek Environmental Restoration Project, of which Lake Wanahoo is the focal point. We are busy protecting lives and property and the future with all-hazards mitigation plans for seven counties and 29 cities, sponsoring U.S. Corps of Engineers 205 studies for Fremont, Schuyler, and Woodcliff--which is just a residential area, for those who are not familiar with it, on the other side of the river from Fremont; and currently cost-sharing with projects in David City, Fremont, Newman Grove, North Bend, Platte Center, Schuyler, Wahoo, and Yutan. And we are the lead agency for spraying over 50 miles of the Platte River for invasive weeds last month; this group includes four NRDs and nine counties. We are meeting today to see if there are ideas that can make the NRD system better and if we even need NRDs. Of course, we welcome new ideas which have merit and serve our citizens better and more efficiently. From my perspective, it appears that there is a few citizens across the state upset due to their

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local NRD planning a project in their backyard, and they are taking their dissatisfaction to a higher level. I hope as legislators you understand that at the local level it is very important (sic) to make a vote which will undoubtedly create animosity among our neighbors, friends, and relatives. As an NRD board member it is my duty to always carefully weigh the cost to an individual to the benefit of the many, and it is not always an easy and pleasant task. I believe the NRDs are the most efficient method of delivering local government programs in our state. NRDs have let (sic) our egos prevent us from being efficient but have worked together when problems are better solved by using interlocal agreements. My constituents enjoy being able to work with locally elected officials and having access to a staff of experts. The Franklin Planner quote yesterday was: Someone's sitting in the shade today because someone planted a tree a long time ago, stated by Warren Buffett. I appreciate the opportunity to share my thoughts with you today. If further discussion is needed on NRD efficiency, we stand ready to assist you. Maurice Kramer, the father of NRDs, planted a tree a long time ago, and I believe the state of Nebraska is sitting in its shade today. And I'm through with my testimony, and I would welcome any questions. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Saalfeld?
Senator Dubas. [LR181]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Saalfeld. How long have you served on your board? [LR181]

DAVID SAALFELD: I have been on the board for 12 years. [LR181]

SENATOR DUBAS: There is a thought that maybe many of these boards are too heavily weighted towards irrigation interests and aren't conducive to a diverse perspective of ideas. Is that something that you have felt has been an issue on your board? Do you see it maybe in other areas? Do you see other ways that these types of boards can be more inclusive of all perspectives that deal with water issues? [LR181]

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DAVID SAALFELD: Obviously, elected to the board, of course, are people that are interested in water issues in our district. And I guess whoever has--let's say--a better campaign (laugh) will normally get elected to it. But I understand your point. And I think currently, personally myself, I think our board represents a diverse area, with dryland farmers and irrigated farmers currently. So to answer your question, I think we're well represented right now. [LR181]

SENATOR DUBAS: Thank you. [LR181]

DAVID SAALFELD: Um-hum. [LR181]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. And I'll be following you home. [LR181]

DAVID SAALFELD: Right. [LR181]

ROBERT HILSKE: (Exhibit 26) Chairman Langemeier, committee, the day's getting long; I'll try to be brief here today. We've already heard a little bit about partnerships, and that was where I was going to direct the focus of my testimony today. And I handed out written testimony, and so I'll try to kind of sprint over it a little bit. But Andrew Carnegie, the famous industrialist, once said: No man will make a great leader who... [LR181]

SENATOR LANGEMEIER: I need to stop you. You need to do your name and spell it. [LR181]

ROBERT HILSKE: Oh. Bob Hilske, general manager, Nemaha Natural Resources District, H-i-l-s-k-e. I'm sorry. [LR181]

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SENATOR LANGEMEIER: Thank you. Okay. Now go. [LR181]

ROBERT HILSKE: The famous industrialist Andrew Carnegie once said: No man will make a great leader who wants to do it all himself. NRDs learned this lesson many years ago. That's why we've actively and historically approved many...gone into many partnerships with counties, cities, school districts, and other entities, and private groups. NRD partnerships can be as simple as the South Platte NRD working with a Pheasants Forever chapter to buy a grass drill or as complex as the Lower Platte South NRD working with UNL, Lancaster County, and the city of Lincoln to put together the Antelope Valley Project. In our district, the Nemaha NRD--which has been attached to the testimony--we have over 15 active interlocal agreements. Some of the more recent partnerships that we've pursued: We've worked with communities such as Nebraska City, Sterling, Pawnee City, and Falls City to develop trails and wetlands in their local parks so they can be enjoyed by future generations. We've worked with counties to help replace aging bridges with road dams, which are far safer and increase the safety of local transportation systems. We've worked with communities such as Julian, Rulo, Humboldt, and Verdon to abandon 65 wells which were a danger to the public in those communities. Right now we're teaming up with five other NRDs, the state and USGS to evaluate the geology in eastern Nebraska so we can better manage our ground water resources. And recently we completed a project with the Boy Scouts of America to renovate a lake at their Boy Scout camp down near Humboldt, Nebraska. A couple of years ago the state faced a daunting task. FEMA was requiring that all local entities develop an all-hazards mitigation plan so that they would qualify for many future FEMA funding programs. In most states, that meant going with county plans. That would have meant 93 plans in the state of Nebraska. The Nebraska Emergency Management Agency--they were looking for another option. They found one: Nebraska's NRDs. Most NRDs never had worked with FEMA before, but we willingly took on this task. So in the Nemaha NRD, we're working with five counties in southeast Nebraska to develop one plan. And that alone saved \$200,000, because a typical county plan would cost \$80,000 for one plan, at a minimum cost. One thing we've discovered: Our district is a very rural

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district; most communities, even counties, don't have a lot of staffing; they don't have a lot of funding to put together agreements. A lot of counties or communities we work with, we might be working with a part-time village clerk. That's where we can be a great benefit to those communities, because we've got the staff, and we have some of the funding that we can put partnerships together and get projects done, like I mentioned, in some of these local communities. We've put together kind of a unique niche in local government. It's ironic that 40 years ago, when NRDs were formed, southeast Nebraska probably fought hardest against the formation of NRDs. Citizens groups were formed; the local papers said NRDs would never work. But today if you ask those people, they would still fight to keep the things the way they are. But instead of saying NRDs are a bad idea, they'd probably say NRDs are probably one of Nebraska's best ideas. A few things I'd like to mention: I'm one of the few staff people in the NRD system that can claim to have worked with three different NRDs; I've worked for 27 years for NRDs. I worked...the first job I had was for an NRD that worked with ground water management, protecting ground water levels. The second district I worked with, range management was their key priority. Today I work with a district where flood control is our key priority. The amazing thing is that if we were in another state, that would have to be three different governmental entities formed to do those three things. In Nebraska, that's one. And that's what amazes me, that 40 years ago people had the forethought to put this together so that that one entity could do all these different things. There was a question that came up--Senator Dubas asked about directors' make-up of boards. We've got a 21-member board. We're a very rural district, mostly farming. Of my 21-member board, I believe only 7 of those board members are active in farming. The rest are bankers, insurance salesmen, Corps of Engineers employee, retired engineers, so we've got a great diversity among board members on our district's board. So I think that gives us a great feel for what the local community wants, what they need, and how we can provide benefits to them. So that's what I had for my testimony; I'd be willing to answer any questions that you have today. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank

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you very much for your testimony. Welcome. [LR181]

RON CACEK: (Exhibit 27) Thank you. Senator Langemeier and members of the committee, I'm Ron Cacek, R-o-n C-a-c-e-k. I am general manager of the North Platte Natural Resources District, located in Scottsbluff. The district encompasses approximately 3 million acres in Banner, Scotts Bluff, Morrill, Garden, and a portion of Sioux counties. Agriculture is the predominant industry in the district, with approximately 440,000 surface-water- and ground-water-irrigated acres. Irrigation is essential to agriculture within the North Platte NRD, where the average annual rainfall for the entire district is about 16.5 inches. During the last decade, the Panhandle was in the midst of a drought of historic magnitude. Ground water quantity management and integrated management became a top priority for the NRD. For example, in response to declining ground water levels, management in the Pumpkin Creek Basin began in 2001, and a districtwide moratorium on new irrigation wells was instituted in 2002. The NRD also has a host of other programs and responsibilities, which have not faltered during this time, even though water management has taken center stage. On September 14 of this year, 2009, the joint NRD-Department of Natural Resources integrated management plan became effective. In addition, the NRD along with DNR and the other four overappropriated Platte basin NRDs has adopted a basinwide plan, which became effective on September 11, 2009. In order to meet the first-increment goal in the IMP of addressing stream-flow depletions due to uses initiated after 1997, the IMP includes a commitment to implement a 56-acre-inch ground water allocation over a four-year period. And that translates into a basic allocation of 14 acre-inches per year. This will start with the 2010 irrigation season. And currently the NRD has a 12-inch allocation in the Pumpkin Creek Basin and an 18-inch allocation in the overappropriated portion of the NRD, which is essentially the North Platte River valley. In order to implement allocations within the NRD, flow meters have been installed in the entirety of the overappropriated area, and that includes Pumpkin Creek. Implementing actions such as allocations over a large geographic area take considerable time and resources. In order to ensure compliance with such regulations, the geographic area regulated by a single

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entity must remain workable. The geographic size of an NRD must allow for equal representation of all citizens of the district and not to make it prohibitive for directors to travel to meetings or for citizens to travel to the district office. There is a great diversity throughout the state of Nebraska with regards to climate, topography, and cropping patterns. Given these differences, one integrated management approach for the entire state would not be practical. For example, the Panhandle has significantly different climatic conditions than the eastern part of the state. The difference in climate affects how people use water for irrigation and what types of crops are grown. The physical conditions in the Panhandle, particularly the scarcity of water, are something that local people have been dealing with since the area was settled. Thus, they are very aware of the challenges related to water management, and therefore they'd know best to manage the limited amount of water for optimum use. The citizens of the North Platte NRD are committed to managing water resources so that the socioeconomic viability of the area will be maintained and the statutory obligations will be met. In addition, the NRD board understands the statutory obligations of water management and has risen to the challenge by recently adopting the IMP and the basinwide plan--both in concert with DNR--which are in compliance with current statute. The NRD is committed to working together with DNR going forward in implementing the IMP and developing the best available science through studies and additional modeling efforts to allow for adaptive management. There are a number of other actions related to compliance with the goals and objectives of the current IMP, and the NRD and DNR, in several instances with the other appropriated (sic) Platte basin NRDs, are either already taking or looking into this. Since management of our limited water resources is of utmost importance to the North Platte NRD, a large portion of the district's budget has been committed to integrated water management. In summary, the best chance for successful integrated management is to have the local people working together with DNR to develop and implement integrated management solutions that are appropriate for the local area. I'd be happy to answer any questions. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank

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you very much for your testimony. [LR181]

RON CACEK: Thank you. [LR181]

SENATOR LANGEMEIER: We have two more? Three more? We're going to conclude at 1:30, no matter what happens. We've got to get to another one. [LR181]

MIKE ONNEN: (Exhibit 28) Senator Langemeier, I'm Mike Onnen, manger of the Little Blue Natural Resources District in Davenport. That's M-i-k-e O-n-n-e-n. My wife is a schoolteacher, and she tells her kids it's a five-letter name that goes on and on and on and on. But I won't try to do that today. I've got a copy of my testimony for you; I've also included a copy of a letter that I sent to Senator McCoy addressing some of the questions he had about Natural Resources District projects. And we've talked a lot about water today and particularly ground water and ground water management. But I'd like to visit with you just about a few of the projects from the Little Blue NRD that are maybe a little different twist on water. Mike Clements mentioned from the Lower Republican their involvement in the rural water district. In 1975 the Little Blue NRD became the sponsor for one of the very first rural water districts in the state that was owned and operated entirely by the NRDs. Working closely with many rural residents, the city of Fairbury, and two small villages, we developed a system that addressed poor water quality issues and even poor availability of water in a portion of our district. In our project we purchased water from the city of Fairbury, and we distributed it through miles of service pipeline to serve domestic, livestock, and business uses in Jefferson and Thayer Counties in Nebraska and also in Washington County, Kansas. Today the district maintains a system that contains about 250 buried miles of pipeline, two rural water towers, and three booster stations. We serve over 400 rural service customers, one of those being the Endicott Clay Products brickyard, which is south of Fairbury--one of the major employers for the area. We also serve 70 customers across the state line in Kansas. These are people who, because of their location, were not able to get rural water from other sources, but they do business in the Fairbury area, so it made sense

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that we would serve them even across the state line. This is a self-supporting project, funded entirely by the water payments of its customers. And the people of the area will tell you that the project has been one of the greatest blessings in protecting the rural health, increasing property values, and stimulating the area's economy. The Little Blue NRD is also a leader in assisting many of our communities in understanding and becoming engaged in wellhead protection measures. The purpose of wellhead protection is to formulate and initiate actions to protect the community's source water and their investment in their public water supply. Our NRD contains 38 communities, and we have currently assisted 21 of those in getting plans developed and approved by DEQ. We have two more community plans that are nearing approval and two more community plans that we've just started on. We also are working collaboratively with the city of Hastings, our largest community, with a population of about 24,000 people, developing measures to protect their water supply for their residents. And not only are we doing the...working with communities so they understand the complex issues surrounding the source water protection, but we've assisted them in securing grant funds that then are used for implementing best management practices, both in the cities and in the rural areas as well. And this has been, really, a tremendous program for our Natural Resources District as we establish some outstanding cooperative relationships with those communities--both the villages and the cities. One other project I'd like to highlight is a cooperative effort between the Little Blue NRD, the city of Hastings, and the U.S. Army Corps of Engineers on a ground water cleanup effort southeast of Hastings. Due to the extensive ground water contamination resulting from World War II ordnance production in the Naval Ammunition Depot, the Corps of Engineers has developed plans to pump and treat contaminated water from the area's aquifer. The plan calls for pumping nearly 4,000 gallons a minute from approximately 20 wells. And that would amount to about 6,450 acre-feet per year. It's estimated that the pump and treat process may take as many as 45 years. The district's concern for the aquifer mining that may take place in that case has positioned us to be a critical partner in identifying reasonable alternatives for the reuse and recycling of the water so it's not simply pumped, treated, and then dumped to waste someplace. The consultant we've

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hired is examining various alternatives. Some of those that we're looking at are the new power-generation station in Hastings, business and manufacturing in the industrial park southeast of Hastings, livestock use, reinjection, and wetland development. With a broader and more regional impact in mind, we're even evaluating the option of piping some of the excess water or perhaps discharge water from the cooling towers of the energy center to the Republican basin to help with their compact requirements. That may be a far-fetched idea, but we thought: Let's take a look at it. We felt that it was important to do that. There has been discussion a lot about the water regulations of the districts, and one that I just want to highlight that I don't have in the script here: Our district took on about five years ago a small area of our district where it's an isolated aquifer. We...our ground water plan divides our district into about nine different regions based on their similar hydrology. But one area has separate hydrology. And we recognize that that's the only area of our district where the ground water decline seemed to be fairly consistent from year to year. So we were able to get together with the landowners there in a meeting, which probably nearly 70 landowners were involved--almost all of the folks that represented that area. And in discussions with them, we agreed mutually to put a moratorium on well development and irrigation development on that area for this point in time. And then we are doing some continuing studies to try to determine how we might be able to balance things out. The people were very willing to do that. And I think it showed that the NRD board was willing to work with the people and in this case maybe do something that, if control is done by the state, for example, that cooperative venture on that local level may not have happened. So we're very pleased that the neighbors in that area have worked very cooperatively with us. In conclusion, as you receive the testimony, you've heard a lot of things--the good things--about the NRDs and what they're doing to protect lives and property and the future of our resources. It's my hope that you recognize the great treasure that we have in the Natural Resources Districts here in the state of Nebraska. And I would answer any questions you have. [LR181]

SENATOR LANGEMEIER: Very good. Are there any...? Senator Carlson. [LR181]

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SENATOR CARLSON: Thank you, Senator Langemeier. Mike, on this...on the munition property, right now you are using all of the water that you're pumping? Finding a use? [LR181]

MIKE ONNEN: Actually, the project is in the planning stage. [LR181]

SENATOR CARLSON: Okay. Yeah. [LR181]

MIKE ONNEN: The Corps has not...they're looking at a probably a 2012 implementation. [LR181]

SENATOR CARLSON: Okay. Okay. And all that would take to get part of it to the Republican basin is money. [LR181]

MIKE ONNEN: Money. A lot of money. [LR181]

SENATOR CARLSON: Yeah. [LR181]

MIKE ONNEN: And also there's going to be some political issues, obviously, in the Hastings area as we try to look for the best solutions to that without creating some additional mining problems in the area. So it's one of those issues the local board is going to have to wrestle with a little. [LR181]

SENATOR CARLSON: But those are the kinds of things that we need to look at seriously--counting the cost. But what's the costs of the problem if we don't solve it? Like in the Republican basin. So I appreciate those thoughts. Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Are there any other questions? Are we getting any credit for the water--municipal wells that are in Kansas? Your 70...? [LR181]

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MIKE ONNEN: Well, actually the municipal wells are in Nebraska. [LR181]

SENATOR LANGEMEIER: No, but you...in your testimony you have 70... [LR181]

MIKE ONNEN: Yeah, we meter all the water that goes across the line, though, and they pay for it. [LR181]

SENATOR LANGEMEIER: Okay. [LR181]

MIKE ONNEN: And, actually, if you have one more minute... [LR181]

SENATOR LANGEMEIER: Barely. [LR181]

MIKE ONNEN: Because of the association that we had with the Kansas residents and because the income level on Washington County side--the state line--was lower than Nebraska side, they actually were able to get block development funds that offset some of the cost of expanding our lines to provide them water. So they actually reduced the cost of our project for the Nebraska folks in making this project work. It was a great collaborative effort that couldn't have been done without the NRDs, I believe. [LR181]

SENATOR LANGEMEIER: Very good. Thank you very much. [LR181]

DARROL EICHNER: (Exhibit 29) Excuse me. I don't have more copies... [LR181]

SENATOR LANGEMEIER: No, that's fine; we'll distribute it. Okay. Let them look at it now; we'll get it to them. [LR181]

DARROL EICHNER: You want out of here; I want out of here; let's help each other here. [LR181]

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SENATOR LANGEMEIER: Your name first, though. [LR181]

DARROL EICHNER: Darrol Eichner. [LR181]

SENATOR LANGEMEIER: Thank you. [LR181]

DARROL EICHNER: D-a-r-r-o-l E-i-c-h-n-e-r. I'm representing myself and my family and our private--or our dryland farming operation in Keith County, a dryland farm and rangeland. Appreciate your patience for a little longer on an issue that's of concern to me and has been very frustrating--my contact with the Twin Platte NRD involving my well, a domestic well issue. And I had work done on my domestic well in 2002; I had to replace some delivery line. One thing led to another; I had to put in a new submersible pump motor, on and on. It got expensive. At that time I asked the man doing the work the depth of my well, water level, so forth. And I was told I had a 275-foot-deep well with about 18 foot of static over it. Of interest was the pump was at the bottom of the well, could not be lowered. Time went on. And there's a pivot across the road from me, and that pivot runs 24/7, never shuts off, whether it rains or it doesn't. Just one example: I've taken a photo of a rain event. That's water in the ditch, not from a pivot; that's from rain, and that picture was taken a couple minutes later. That's from the night before. The pivot is running. I contacted Jim Goeke. I wondered, you know, 18 foot of water is not a lot of water. Everything is relative. I contacted Jim Goeke, asked his opinion. I said: Is this something I need to be concerned about? And he said: Definitely. You...we don't know a lot about the water under where you live in Keith County, but you're not sitting on a wealth of water. Contact your local NRD and have them start measuring your water level. Well, I have the domestic well that serves the house and dual-purpose for livestock, and then I have two livestock wells on pasture in the neighborhood. I contacted the Twin Platte NRD in January of 2004, approximately, and contacted an individual and asked if I could get my well water level measured. He said: Yeah, no problem; be out there in a couple of weeks. Well, it got to mid-2004, nobody had

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contacted me. I stopped in at the North Platte...Twin Platte NRD office, spoke to the manager, told him my concern, what I was there for. He apologized. He said: We will have somebody out there in a couple of weeks. That was mid-2004. January of 2006, nobody has contacted me from the Twin Platte NRD. I gave testimony on January 19, 2006, to the Twin Platte NRD board; still nobody comes to my door to ask to measure my water level. May 31 of 2006, I embarrassed myself and the Twin Platte NRD by making comments to the Water Policy Task Force in North Platte, expressing my concern and my frustration. That was May 31. June 2 the Twin Platte NRD was at my door wanting to measure my water level. I showed the individual where to take the measurement, asked if everything was appropriate from what they would use for information. He says: Most definitely. This will now be incorporated into our data set; this will be checked spring and fall, data recorded one year to the next. Time went on. I was not sure if they followed up for the fall reading. Time got away from me. I contacted that individual in early 2007, asked if he had made it for the setback for the second reading on my well. He said: I'm sorry, forgot, didn't get it done, apologize. I said that's fine. I forget myself, but, by the way, could you give me the reading from the first time when you were here? Well, he couldn't. He looked for it; he couldn't find it. He said: I'll call you back. He never did. To this day, he's never called back. Do you understand the frustration that I have in dealing with the NRD in what I am...is a very serious concern? I contacted the...an attorney, Blankenau. I've had a conversation with him. He says: You can't begin to have legal...pursue anything legal you can't afford; you're one of the little people; you can't jump into that venue. I talked to DNR--legal counsel with DNR--and they have told me that mine is a similar comment/request. They have a number of people that have contacted them about having to replace or lower a domestic well, and we do...they do not want to be bothered with it, because there is not their area of responsibility. It is the responsibility of the NRDs. Well, you can understand why people like myself, out of frustration, are contacting the DNR. Very briefly, I had one conversation with Ed Schrock, and I relayed my concerns when he was the committee Chairman, Natural Resources Committee, explained what I've essentially just told you and asked him: What do I do? And here was his answer. Again, do you understand my

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frustration? The...I hate to throw stones at the Twin Platte NRD, but why do they not follow up with my request? Am I...are they busy? As one of the little people, are there more important things for them to do? Doesn't stop them from accepting my tax levy on a couple of thousand acres. Does a problem like mine, if I do have a declining water level that continues, does my problem threaten the bigger scope of things with irrigated agriculture as we know it? I, obviously, am not in favor of the NRDs having any authority with ground water management. That, again, is my opinion. There's...Nebraska is under correlative water right law. Each landowner has access to an equal amount of water. That pivot across the road is a 1,040-gallon-a-minute well. If it pumps for a thousand hours per season--normal season as identified to me by some irrigators--that's 62 million gallons that pumps in one season. If you use a 500-gallon-per-day water use that my wife and I would use for domestic purposes, that's 182,000--a little over 182,000 gallons. You divide that latter number into the 62 million used in one season by that pivot, that pivot uses enough water to supply my wife and my needs for 242 years. I appreciate your time. Again, do you understand my frustration? And I won't bother you with the question on what do I do. [LR181]

SENATOR LANGEMEIER: Are there...thank you very much. Are there any questions? And, Darrol, I'd also...a little different note is Senator Haar introduced LR101, which is an interim study to examine issues related to the impact of your domestic well on irrigation water around it, so we will be having another hearing on that, so we'll take your testimony over to that one as well... [LR181]

DARROL EICHNER: Okay. []

SENATOR LANGEMEIER: ...if you...so fit...it would fit there really well. So we will take that as well. []

DARROL EICHNER: Is there any possibility that the Legislature would create a database of people like myself that have had or that could have a problem, that have

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already had a problem? I know of four individuals in my area that have had to lower or replace a well. Based on the DNR legal counsel, she never did quantify how many calls that they had gotten other than a lot, and it was to the point that it was a nuisance, because it's not their responsibility. Is a database of domestic, livestock wells that had to have been lowered or replaced, is that of any value with future decisions? [LR181]

SENATOR LANGEMEIER: That's a good question. We'll add that to that discussion as well. Any... [LR181]

DARROL EICHNER: Thank you. [LR181]

SENATOR LANGEMEIER: ...other questions? Seeing none, thank you very much. Thank you for your patience. One more? Good afternoon. [LR181]

JOHN TURNBULL: (Exhibit 30) Good afternoon, Senator Langemeier and members of the committee. I'll be quick; you want to get on the road and do other things. I just want today...first off, I'm John C. Turnbull, T-u-r-n-b-u-l-l. I am the general manager of the Upper Big Blue NRD at York. I've managed NRDs for 34 years. I have today a copy I'll present to you of our interlocal agreements, and this is a report that is submitted to the state auditor on an annual basis. We have 29 existing agreements, as of the end of the fiscal year of 2009. There was a question raised earlier today about board size and the make-up of the boards. Our board of directors is 17 members in size, and it's been that way since the district was formed in '72. Currently we have one well driller, an air quality specialist from Department of Environmental Quality, a retired banker, a school nurse, and the rest are farmers who irrigate. So it's a pretty good cross section. And as a manager, I appreciate those cross sections. Because of all of the complex things we deal with, I need advice from more than just any one particular interest. There needs to be a cross section of advice to make good decisions. The board does deal with and make hard decisions. An example is we require large-water-user studies for any water user who's going to pump more than 500 acre-feet a year from a tract of land. That

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includes ethanol plants or cities. The board has had to deal with several of those in the past three years. They made a decision recently on a city new wellfield not to allow the city as much water as they had requested. So they are willing to tackle a hard issue like that and try to make some sort of fair decision and still protect the aquifer and the surrounding operators. With that, I think the last thing I'd say is the emphasis over the years in the districts that I've managed has shifted from mostly rural type of projects and assisting rural farmers or rural landowners to now a mix of rural and urban projects. We need to deal with the folks in villages and cities just as well as we deal with the folks in the rural lands--can be from flood control, can be water management, all of those other things that we have responsibilities for. And with that, I'll close and answer any questions you have. [LR181]

SENATOR LANGEMEIER: You did great. Are there any questions for John? Seeing none... [LR181]

JOHN TURNBULL: Well, we do appreciate you holding these hearings, Senator and the committee, and I think that we've got a lot of things that both of us learn on both sides of this table. And I hope it's been helpful to you and your committee. [LR181]

SENATOR LANGEMEIER: It's been a great three days, and we appreciate the hospitality we've seen as we've traveled the state. To read into the record we have a number of letters, and my e-mail is going off...I'm getting more e-mails. So as we get back to our office, we will add those e-mails. Yeah, more towards LR181--we'll add those to the record as we get back to the office and can print them. But I have one from Tom Moser with Lewis & Clark Natural Resources District; we have Lowell Johnson from Wayne, Nebraska; Jim Suttle, mayor of Omaha; Jackie McCullough, American Council of Engineering Companies; John Thorburn from Tri-Basin NRD. And as Dean had mentioned earlier, we got one from Larry Prather from the U.S. Corps of Engineers. And we will have a number to read in that were sent via e-mail today or while we were traveling the last two days. We'll add those to the record as soon as we can get back

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and print those. With that, we'd like to thank everybody for coming and your participation. And have a great day. Thank you very much. [LR181]

MEMORANDUM

TO: WATER POLICY TASK FORCE MEMBERS
FROM: SEN. CHRIS LANGEMEIER, CHAIRMAN
NATURAL RESOURCES COMMITTEE
DATE: AUGUST 6, 2009
SUBJECT: LR 128 – STATE WATER PLAN

As you are likely aware, the Natural Resources Committee is conducting an interim study on LR 128, a resolution calling for an examination of water resources management. As we prepare for interim hearings on the resolution, I am writing to ask for your assistance with our research.

My intent for the resolution is to get a comprehensive description of what a statewide water plan should look like for Nebraska. I believe the consensus among task force members is that such a plan is needed, and while the work done by this task force on LB 962 provided a significant step towards comprehensive planning, more needs to be done.

You, as experts in your various fields involving water, have a wealth of knowledge on water issues in Nebraska. It is likely that you have put a great deal of thought into what Nebraska needs in a statewide water plan. I am asking you to share your thoughts and advice with the Natural Resources Committee as a part of this study.

More specifically, what issues, in your opinion, must be addressed in a comprehensive statewide water plan for Nebraska?

Our research thus far has involved looking at historical state water planning, what other states are doing, and identifying current efforts by others towards creation of a state water plan. Any assistance you can give with collecting this information would be helpful and appreciated.

My plan is to examine all of these resources, hold some public hearings, and then collaboratively structure a road map that lists all the necessary components of a statewide water plan. Obviously there will be a great deal of work to be done at that point, but I believe this type of outline must be formed and agreed upon before moving forward.

Public hearings have been scheduled on October 5 in Valentine, and on October 7 in Kearney for LR 128. In order to be prepared for those hearings, **I would be grateful if you could respond to this request by Friday, September 4.** I also encourage your attendance at either or both of these hearings. The details are available on the Legislature's website. Please feel free to contact my office if you have any questions or concerns. Thank you in advance for your assistance and continued service to the State of Nebraska.



Dave Heineman
Governor

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
Brian P. Dunnigan, P.E.
Director

IN REPLY TO:

August 27, 2009

Senator Chris Langemeier, Chair
Natural Resources Committee
Room 1210 State Capitol
Lincoln, NE 68509

Dear Senator Langemeier:

The Department has attached several documents for your use in your research on looking at historical state water planning, what other states are doing, and efforts by others towards creation of a state water plan.

The documents include:

1. A brief history and current status of state water planning efforts paper written by Steve Gaul of this Department.
2. Partial timeline of Nebraska State Water Planning/Planning Agency Chronology
3. Bibliographic Material on Other States Water Planning
4. Bibliographic material related to selected past Nebraska Planning Reports
5. Water Policy Task Force Draft White Paper, January 4, 2006, State of Nebraska Water Management and Funding Needs Assessment Report
6. The State Water Planning and Review Process Statutes

We also suggest that you review last year's Annual Report and Plan of Work for the Nebraska State Water Planning and Review Process. The link is:
<http://www.dnr.state.ne.us/AnnualReport/ANNREPORT2008.pdf>

Sincerely,

Brian P. Dunnigan, P.E.
Director

Attachments

**NEBRASKA STATE WATER PLANNING
HISTORY AND CURRENT STATUS
8/26/2009**

History

The earliest major statewide Nebraska state water planning reports date to the 1936 to 1941 *Water Resources of Nebraska* reports prepared by the Nebraska State Planning Board. In the late 1960's the Nebraska Soil and Water Conservation Commission initiated work on special studies related to flood damage prevention and reduction, modernization of resource district legislation, and funding of future development. In 1972 it issued the Framework Study for a State Water Plan, a multi-volume effort. It subsequently also issued status summaries of potential projects with the fourth and final revision coming in March 1979.

In 1972 one hundred fifty four special purpose districts were merged into and became part of 24 newly created multi-purpose natural resources districts. Those districts were required to submit master plans and long range implementation plans for their activities to the Natural Resources Commission and other State agencies. The initial purposes of the districts did include groundwater management, and those duties were gradually expanded with groundwater control area authority in 1975 and groundwater management plan authorities and requirements starting in 1982. The State originally had oversight through the approval or denial of plans and formation of control areas, but over time, such oversight authorities diminished. In 2004 authorities and responsibilities for joint integrated management plans for interrelated surface water and groundwater were added to district duties.

By the late 1970s the potential for funding surface water projects was not as significant as it once was and other policy issues were becoming of stronger concern to the Legislature. The status summaries of potential water projects being completed under the old State Water Plan/Framework Study process were not generally seen as responsive to those policy issues. In 1978 the Natural Resources Commission and other state agencies were directed to develop a process to redirect and accelerate state water planning efforts. The result was passage of legislation resulting in initiation of the Nebraska State Water Planning and Review Process. The process was highlighted in its early years by interagency compilation of a series of 10 water policy issue studies in 16 volumes. These studies presented information, provided alternatives and gave Natural Resources Commission recommendations on major Nebraska water issues. State appropriations were passed through the Natural Resources Commission to other participating state agencies. There was a Public Advisory Board to the process in its early years and the process was led by the Natural Resources Commission. Thus there was local level input. However, the statutorily participating agencies were and are not now local governments.

After completion of the Policy Issue studies funds were generally no longer available to be passed through to other state agencies. Although annual reports on the process

continue to be submitted to the Governor and Legislature, since the mid to late 1980's the reports have focused on the NRC/DNR work effort. Direct participation by other state agencies has been minimal.

The Department of Natural Resources was formed by merger of the Natural Resources Commission and the Department of Water Resources in 2000. The merger of an administrative/regulatory agency with an agency with a more generalized planning background resulted in additional emphasis on implementation planning. The passage of LB 962 in 2004 strengthened the need for that type of detailed planning for statutory implementation with its emphasis on management of interrelated ground water and surface water. Implementation of the LB 962 legislation and addressing needs arising from interstate agreements has been the major area of agency emphasis since that time. Much of that activity is carried out jointly with natural resources districts.

Current Process

Nebraska currently uses a combination of integrated water management planning, ground water management plans and the activities described in the Annual Report and Plan of Work for the Nebraska State Water Planning and Review Process to address state water planning needs. Some local water development priorities can also be found in natural resources district long range implementation plans. Integrated management activities are centered on efforts by the Nebraska Department of Natural Resources and the natural resources districts to implement provisions of the Groundwater Management Protection Act that were initiated with passage of LB 962 in 2004.

However, other state water planning or administrative efforts by different state agencies are also very significant. The Department of Environmental Quality does planning for water quality. The Nebraska Game and Parks Commission has responsibilities regarding instream flows for recreation, fish and wildlife. The Department of Agriculture is responsible for pesticide planning and the Department of Health and Human Services is responsible for drinking water. It should also be noted that floodplain planning activities are a substantial and important Department of Natural Resources activity that, while mentioned in the Annual Report and Plan of Work, are largely separately administered.

Annual Report and Plan of Work for the Nebraska State Water Planning and Review Process

The Annual Report and Plan of Work for the Nebraska State Water Planning and Review Process organizes existing DNR planning related activities into five activity categories enumerated in the statutes. The draft report is provided to the Natural Resources Commission and other state agencies for comment. It has also generally been sent to natural resources districts. The final report is also provided to the Governor and Legislature on or before September 15 each year as required by statute. Except for a period during the early years of the process, comments and input received have been minimal. The original statutes for the planning and review process envisioned it as an

interagency process with other participating state agencies. At the current time the involvement level of other state agencies is low.

By statute the process is to be designed to: *“(1) Provide the Legislature and the citizens of Nebraska with information and alternative methods of addressing important water policy issues and areawide or statewide water resources problems; (2) provide coordinated interagency reviews of proposed local, state, and federal water resources programs and projects; (3) develop and maintain the data, information, and analysis capabilities necessary to provide state agencies and other water interests with a support base for water planning and management activities; (4) provide the state with the capacity to plan and design water resources projects; and (5) conduct any other planning activities necessary to protect and promote the interests of the state and its citizens in the water resources of Nebraska”.*

The second activity of coordinated interagency reviews and the fourth activity of providing the state with the capacity to plan and design water resources projects were never fully implemented. The level of implementation of other activity areas is a matter of interpretation.

Integrated Water Management

Although Integrated Water Management activities technically fall under the umbrella of the State Water Planning and Review Process, they are in most respects the heart of current water planning efforts by NDNR (in cooperation with the natural resources districts). Interstate responsibilities on both the Platte and Republican are a major part of this effort. The type of work that has resulted is 1) detailed modeling of interrelated ground water and surface water, 2) contracted research for relevant physical information, and 3) detailed joint planning with natural resources districts to combine physical information, statutory requirements, alternatives/incentives/regulation and other factors into statutorily and locally acceptable plans that can achieve a sustainable balance of water uses.

Ground Water Management Plans and Other Natural Resources District Responsibilities

The planning role of local natural resources districts is now a major part of Nebraska's approach to water planning. Natural resources districts not only have joint responsibilities for integrated management plans, but have responsibilities for ground water management plans for both quantity and quality purposes. They also have master plans and long range implementation plans for their overall activities.

**PARTIAL NEBRASKA STATE WATER PLANNING/PLANNING AGENCY
CHRONOLOGY**

- 1895** Creation of State Irrigation Board; (1919) Board becomes part of Department of Public Works; (1933) becomes Bureau of Irrigation, Water Power and Drainage in Department of Roads and Irrigation; (1953) becomes Department of Water Resources.
- Circa
1936-1941** State Planning Board produces reports on Water Resources of Nebraska (including recommendations on water conservation)
- 1937** Creation of Soil Conservation Districts (became soil and water conservation Districts in late 1950s)
- 1971** Framework Study for the State Water Plan
- 1972** Creation of Natural Resources Districts
- 1972** Creation of Natural Resources Commission
- 1978** Initiation of State Water Planning and Review Process
- 1980 (circa)** Water Quality Planning transferred from Natural Resources Commission to Department of Environmental Control
- 1982** Ground Water Management Plan Legislation
- 2000** Nebraska Department of Natural Resources created by merger of Department of Water Resources and Natural Resources Commission
- 2004** Passage of LB 962 Integrated Water Management legislation

SELECTED BIBLIOGRAPIC INFORMATION ON WATER PLANNING
ACTIVITIES IN OTHER WESTERN STATES

8/25/09

General Reports

Water Policies and Planning in the West – Ensuring a Sustainable Future, October 2007,
Western States Water Council and Western Governor's Association

Water Needs and Strategies for a Sustainable Future, June 2006, Western Governor's
Association

Western State Water Plan or Water Planning Web Addresses

Alaska
NA

Arizona
<http://www.azwater.gov/AzDWR/StatewidePlanning/default.htm>

California
<http://www.waterplan.water.ca.gov/>

Georgia (added as eastern example)
<http://www.georgiawaterplanning.org/>

Idaho
http://www.idwr.idaho.gov/waterboard/WaterPlanning/StateWaterPlanning/State_Planning.htm

Kansas
<http://www.kwo.org/Kansas%20Water%20Plan/Kansas%20Water%20Plan.htm>

Montana
http://www.dnrc.mt.gov/wrd/water_mgmt/planning_activities/default.asp

Nevada
<http://water.nv.gov/WaterPlanning/wat-plan/con-main.cfm>

New Mexico
http://www.ose.state.nm.us/publications_state_water_plans.html

North Dakota
<http://www.swc.state.nd.us/4dlink9/4dcgi/GetContentPhoto/PB-136/640/480>

Oklahoma
<http://www.owrb.ok.gov/supply/ocwp/ocwp.php>

Oregon
NA

South Dakota
NA

Texas
<http://www.twdb.state.tx.us/wrpi/swp/draft.htm>

Utah
<http://www.water.utah.gov/waterplan/default.htm>

Washington
NA

Wyoming
<http://waterplan.state.wy.us/>

**BIBLIOGRAPHY – SELECTED HISTORICAL NEBRASKA WATER
PLANNING DOCUMENTS IN GENERAL ORDER OF PUBLICATION
(Water Quantity Documents Only with Emphasis on Publications of NDNR and
Predecessor Agencies)**

Water Resources of Nebraska, Nebraska State Planning Board, 1936-1941

Report on the Framework Study for the Nebraska State Water Plan, Nebraska Soil and Water Conservation Commission, May 1971. *Note: In addition to this report, the effort included status summaries, appendixes, and other publications.*

Annual Report and Plan of Work for the Nebraska State Water Planning and Review Process, issued by September 15 each year, 1979 to present

Nebraska Water Policy Issue Studies, Nebraska Natural Resources Commission:

(1) <i>Instream Flows</i>	<i>January 1982</i>
(2) <i>Water Quality</i>	<i>March 1980</i>
(3) <i>Groundwater Reservoir Management</i>	<i>March 1982</i>
(4) <i>Water Use Efficiency</i>	<i>April 1985</i>
(5) <i>Municipal Water Needs</i>	<i>March 1983</i>
(6) <i>Supplemental Water Supplies</i>	<i>January 1984</i>
(7) <i>Selected Water Rights Issues</i>	
- <i>Preferences in the Use of Water</i>	<i>October 1981</i>
- <i>Drainage of Diffused Surface Water</i>	<i>May 1982</i>
- <i>Water Rights Adjudications</i>	<i>December 1982</i>
- <i>Property Rights in Groundwater</i>	<i>January 1983</i>
- <i>Riparian Rights</i>	<i>March 1983</i>
- <i>Interstate Water Uses and Conflicts</i>	<i>April 1983</i>
- <i>Transferability of Surface Water Rights</i>	<i>May 1983</i>
(8) <i>Water and Energy</i>	<i>January 1984</i>
(9) <i>Integrated Management of Surface Water and Groundwater</i>	<i>April 1986</i>
(10) <i>Summary and Review</i>	<i>December 1986</i>

Report of Governor Bob Kerrey's Water Independence Congress, December 1983

Platte River Forum for the Future, Nebraska Natural Resources Commission, Jan. 1985

Report on the Water and Water Rights Transfer Study, Nebraska Water Management Board, November 1985

Summary of the Nebraska Soil and Water Conservation Strategy, Nebraska Natural Resources Commission, February, 1986

An Evaluation of the Potential for Consolidation of the Nebraska Department of Water Resources and the Nebraska Natural Resources Commission, A Report to Governor Mike Johanns by Roger Patterson, Director, Nebraska Department of Water Resources and Dayle E. Williamson, Director of Natural Resources, November 15, 1999

Report of the Nebraska Water Policy Task Force to the 2003 Nebraska Legislature, December 2003

Nebraska All Hazards Mitigation Plan, Nebraska Emergency Management Agency, 2009

State of Nebraska Water Management and Funding Needs Assessment and Report

Draft White Paper—January 4, 2006

The State of Nebraska is currently facing increasing pressure to address water quantity needs as a result of state statutes, interstate compacts and agreements, continuing drought and other factors. The Governor, Legislature, DNR and NRDs have difficult choices in terms of how to address these issues and how to fund necessary actions. The Water Policy Task Force recommends that the State engage in a Water Management and Funding Needs Assessment (WMFNA) to gather information across the State concerning the current state of the system and expected needs to meet statutory requirements, compacts and agreements and local water supply needs. The process is designed to build an understanding of water management alternatives in each basin while allowing for a well informed discussion about funding strategies to meet the identified needs.

WMFNA Overview

1. Beginning in 2007, a systematic assessment of water management issues, alternative solutions and funding needs related to water quantity will be conducted within each river basin (basin, sub-basin and NRD level).
2. The overall goals of the assessment process will be to build an understanding of the water supply issues and management alternatives in each basin, the associated costs, anticipated benefits, and identify funding needs.
3. The assessment would be conducted in phases. In 2007, initial assessments of the Platte River upstream of Chapman and of the Republican River basin will be conducted and a report for these two basins presented to the Governor and Legislature before the 2008 legislative session.
4. In 2008, assessments of the remaining basins will be conducted and the finalized statewide report presented before the 2009 session.
5. The WMFNA would produce basin based reports, compiled at the state level, presented to the Governor and Legislature, that would in each basin: identify water management issues; outline ongoing water management and data/science-related activities; inventory potential management and data/science-related activities in each basin; identify costs associated with the alternative management and data/science-related activities; develop 2-year and 10-year prioritized inventory of activities within each basin along with funding needs; and make recommendations of water management and funding priorities on a statewide basis.
6. Prioritization of management activities and funding needs at the state level would involve executive and legislative leadership.
7. After the 2007 and 2008 reports are presented to the Governor and Legislature, progress updates of the report would be provided every 2 years to correspond with the state's 2-year budget cycle. The statewide assessment and report would be repeated at least once every 10 years but procedures would be established to repeat the process more often if needed.
8. To complete the assessments in a timely manner, it is anticipated that a consultant(s) under the direction of DNR will gather information and develop reports both at the basin and statewide levels. Consultants should have expertise in water supply planning, economic and cost/benefit analysis, and facilitation.
9. The WMFNA will gather information and compile it in a systematic and standard way. While an assessment will be performed in each basin, the assessment process, terminology and framework would be standardized across the state to facilitate understanding and discussion.

WMFNA Process

I. Phase I (June – September, 2007)

Phase I will include the following general tasks:

1. Project Initiation
2. Initial Basin Assessments – Platte River Above Chapman
-- Republican River basin

1.0 Project Initiation (June, 2007)

DNR will develop a draft request-for-proposals (RFP) for a consultant consistent with this document. For the purposes of the WMFNA, the consultant will be a technical team organized to conduct the WMFNA with expertise in water supply planning and economic and cost/benefit analysis. DNR will consult with NRDs in developing the draft RFP. The draft RFP will be submitted to the Water Policy Task Force for comment. After receiving comments, DNR will finalize and issue the RFP, select a consultant and enter into a contractual agreement with the consultant.

A meeting with the consultant, DNR and NRDs will be held to review consultant designated tasks, discuss future deliverables and target dates, and outline how interaction between participants will occur over the project period. Consultants will provide DNR with periodic progress updates which will be shared with executive and legislative leadership and the Water Policy Task Force.

2.0 Initial Basin Assessments – Platte River Above Chapman/Republican River Basin (July-Nov, 2007)

The WMFNA will initially focus on the Platte River basin above Chapman and the Republican River basin. These basins are further along in the IMP process and given the pressing needs that exist within these basins, they are good areas to concentrate initial efforts. While this effort will be conducted on a basin-wide level, activities will be identified by NRD to enable evaluation on an NRD level as well. The WMFNA is not meant to replace or in any way disturb the IMP process in each basin. Rather it is meant to compile information from the IMP process.

It is understood the NRDs in the Republican River basin and DNR are engaged in discussions to identify actions to address issues in the Republican basin. These discussions will likely involve a timetable different than the one specified below, likely engage different consultants to analyze various actions for that basin, and involve different steps than those outlined below. It is not the intent of WMFNA to delay or disrupt these discussions. Rather the information generated in the NRD/DNR discussions in the Republican River basin will form the basis of the Republican River basin component of the WMFNA, and if further analysis is warranted through the WMFNA, the consultant for the WMFNA will work closely with the DNR and the Republican River NRDs. It would still be the intent of the WMFNA to present a single report to the Governor/Legislature in the fall of 2007 containing water management and funding recommendations for the Republican and Platte river basins.

- 2.1 Basin water issues identification.** Consultant will develop a standard list of questions to submit to NRDs, DNR, irrigation districts and other stakeholders to identify current water issues within the Platte River basin above Chapman and the Republican River basin. Issues will include commitments required as part of the Platte Program's first increment, requirements to comply with the Republican River compact, as well as issues identified through NRD-level and basin-wide Integrated Management Plan (IMP) processes under LB 962. Consultant will compile responses.

2.2 Inventory management activities¹ and data/science needs. NRDs, DNR, irrigation districts, and other stakeholders will provide consultant a list of ongoing and potential management activities and data/science needs to address issues identified in 2.1. Consultant will provide entities with a list of the information needed for each management activity or data/science need in order to assess funding needs. Consultant will develop a preliminary inventory of management activities and data/science needs, costs and funding alternatives. For each ongoing or potential management activity and data/science need, the actions will be defined and the associated costs (including implementation costs), benefits, and potential impacts of a water management activity on water quality, and and beneficiaries will be described and (where possible) estimated. Uncertainty regarding key estimates will be identified, along with an indication of the level of agreement about those estimates among relevant stakeholder groups. Quantitative information will be used whenever available, with qualitative information used to complete the analyses. If information on management activities and science needs is available as a result of IMP efforts, this information will be used. Anticipated management activity time periods will be noted, both in terms of the estimated time prior to implementation and the projected implementation duration. Consultants will consult with NRDs, DNR, irrigation districts, and other stakeholders as needed to compile relevant information.

2.3 Inventory and issue refinement. The consultant will develop a preliminary listing of issues, inventory management activities and data/science needs, and identify costs and funding alternatives. The preliminary draft will be shared with agencies and stakeholders involved in 2.1 and 2.2 for comment. The consultants will conduct meetings with the agencies and stakeholders to refine the list and properly categorize individual management activities if needed. During this step, potential management activities will be prioritized into short-term (2-year) and long-term (10-year) time horizons based on input and comments received. The advantages and disadvantages of using various finance mechanisms (bonds, tax credits, local property taxes, etc.) will be considered and the ability-to-pay for prospective funding participants, including local NRDs, will be examined. Basic information on potential beneficiaries may also be developed, but no formal cost allocation will be attempted.

2.4 Initial Basin Reports. The consultants will use the refined inventories to prepare reports outlining the results of the initial evaluations for the Platte River basin above Chapman and the Republican River basin. The reports will include identified issues; ongoing and potential management and data/science activities; costs, benefits, and potential beneficiaries for those actions; and advantages and disadvantages of finance mechanisms to recover costs associated with individual actions or groups of actions. Potential management activities and data/science needs will be prioritized into 2-year and 10-year time horizons. More detailed inventories will be available in an appendix, but the main summary will be in a format structured for the general public, stakeholders, and legislators. Information will be presented on a basin-level, as well as an NRD-level. Where opportunities exist for interbasin or inter-NRD activities, and where members of the basins and/or NRDs have expressed an interest in these activities, the reports will identify and describe these possibilities. The Republican Basin report will be completed by July 2007; the Platte Basin report by September 2007. The basin reports will be combined into one report and presented to DNR in September 2007. Consultant should be prepared to present findings at public meetings as requested.

¹ Might include additions to water supply, reservoirs, water use efficiencies, allocations, acreage reductions, evaporation management, evapotranspiration management among other things.

2.5 DNR Submits Reports to the Water Policy Task Force for Review and Recommendation.

2-52.6 Identify Priorities and Make Recommendations to Governor/Legislature. (Nov. 2007) DNR will forward the report and the recommendations of the WPTF to a 5-member committee responsible for making recommendations to the Legislature on funding potential management activities and data/science needs based on the report. The committee will consist of:

Governor (or his/her designee)

Chairs of the Natural Resources and Appropriations Committee

Director of the DNR

Representative of the NRDs

Director of DNR

Representative of the NRDs.

Opportunity for public to comment on report and priorities should be provided.

2-62.7 Governor/Legislature Act on Recommendations. Governor and Legislature decide the amounts and types of funding to provide DNR, NRDs and/or other agencies to address the issues identified in the report.

II. Phase II (October 2007 – October 2008): Other Basins

Phase II will include the following general tasks:

1. Basin Assessments for Remainder of State
2. Historical Funding Review

3.0 Basin Assessments (October 2007—October 2008)

Using the same overall approach as the initial assessments outlined above, the consultant will develop reports for each basin across the state. The basin reports will then be combined into a statewide report containing identified issues; ongoing and potential management and data/science activities; costs, benefits, and potential beneficiaries for those actions; and advantages and disadvantages of finance mechanisms to recover costs associated with individual actions or groups of actions. Potential management activities and data/science needs will be prioritized into 2-year and 10-year time horizons. The report will also include any revisions needed to the initial reports developed for the Platte River and Republican River basins due to changing conditions or circumstances in those basins or additional information learned. The report will also include an historical funding review performed by DNR. Consultants will use the experience gained from the initial assessments in 2007 to improve the efficiency and productivity of the subsequent basin inventory efforts. The statewide report will be provided to DNR and recommendations made to the Legislature and Governor in October 2008.

The basins identified for this effort are listed below:

- Platte Between Chapman and Columbus
- Platte Downstream of Columbus
- Niobrara
- White-Hat
- Loup
- Little Blue
- Big Blue
- Nemaha
- Elkhorn
- Missouri Tributaries

4.0 Historical Funding Review (May-June 2008)

DNR will conduct a review of historical funding for water-quantity projects and integrated management. While not comprehensive, this review will include an overview of major state funds, such as the Nebraska Resources Development Fund (NRDF) and the Interrelated Water Management Plan Program Fund, with analysis of past expenditures, associated activities and project eligibility criteria. A summary of past expenditures by DNR and the NRDs (possibly with additional state agencies) will be included in the statewide report.

4.1 State fund analysis. Several state funds currently exist for funding water quantity and integrated management efforts, many under the oversight of DNR. Some of these funds have not been active recently, and a few appear to have similar funding objectives. As part of the historical review for activities over the last decade (since 1997), a list would be developed of current state funds, focusing on those funds under the direction of DNR, and a summary provided of historical fund revenues and expenses, along with a discussion on the role of the fund and the types of projects that may be eligible.

4.2 State agency funding analysis. Another part of the historical analysis would include considering past levels of funding provided by DNR, the NRDs, and possibly additional state agencies. Information obtained on appropriations and outlays by the agencies would be summarized and included in the historical funding report. In addition, existing cost share arrangements, whether in statute or by other arrangement, will be identified.

III. Phase III (2009 & beyond)

Consultants will develop a framework and/or procedures for DNR/NRDs to update and compile progress reports on progress made with funding provided. Update would also note any new issues or changes since the last reports developed. Reports would be compiled by DNR into a statewide progress report every 2 years. Funding should be flexible to recognize changes in legislative authorities or new issues/concepts that might arise.

Complete statewide assessment and report process would be repeated at least once every ten years using the same process established in the development of the initial reports. Each basin would report on progress made, updating needs, adjusting plans, etc. Consultants would not be involved in subsequent assessments, rather consultants would provide framework for subsequent years so DNR can take lead in the process.

Statewide assessment process could be initiated more often than once in ten years if the committee organized to develop the final state report determines a need exists for assessments and a statewide report. NRDs/DNR could also request the group to initiate subsequent assessments.



Nebraska Public Power District

"Always there when you need us"

September 4, 2009

Senator Chris Langemeier
Chairperson, Natural Resources Committee
Room 1210
PO Box 94604
Lincoln NE 68509-4604

Re: August 6, 2009 Memorandum on LR 128 – State Water Plan

Dear Senator Langemeier:

Thank you for the opportunity to provide input on issues and opportunities that could be addressed in a comprehensive state water plan. Following are some thoughts regarding a statewide water planning effort for your consideration.

To begin the planning process it is important to identify the goals and objectives for the statewide planning process. These could include the following:

Determine water supplies and water uses in each basin and identify if any additional data on the surface water, groundwater, or basin hydro-geology or other information is needed.

Determine a sustainable level of water uses that will allow for management in a manner that prevents reaching an over appropriated condition.

Estimate future water needs within the river basins of the state and develop projects and management plans to provide for those needs.

Determine if any water basin in the state would have excess water for present and future needs that could be used as a supply in another basin.

For fully or overappropriated basins, identify future domestic, municipal, and/or industrial needs that should be considered in addition to the integrated management planning being conducted by the NRDs and DNR.

Provide a process that will enable research for the development of new water supplies, infrastructure, or water consumption conservation that could be used to maintain current levels of development or provide for new uses.

Enable the establishment of a process to establish priorities for use of state funds for implementation.

GENERAL OFFICE

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<http://www.nppd.com>

Provide additional information that may used to enhance integrated management plans.

Educate water managers, the legislature, and the public about Nebraska's water supplies, uses, and future needs.

Other considerations for the development of a statewide water plan could include:

The process to be used to develop a plan.

The process to be used in implementing the plan and to provide for additional data that may become available.

The process to keep the plan up to date.

Responsibilities for the development of the plan and future updates to the plan.

Responsibilities for the implementation of the plan.

Senator, as you know NPPD has been working with a group of NRD and surface water managers that have been discussing various Nebraska water topics. We believe it is important to have a State Water Planning Department to aid in the tasks necessary to develop a State Water Plan, aid in the implementation of the plan, and to provide for future plan updates. It would be beneficial, if a department was established, to have its Director involved in development of a state water plan.

Also, from a planning perspective for basins in the State that are not determined to be fully or overappropriated, the planning process of a state water plan should be able to prevent a basin from becoming fully appropriated and could be used to replace the annual basin evaluation by DNR and the moratoriums that come with a fully appropriated determination.

Again, I appreciate the opportunity to provide input regarding the development of a state water plan for Nebraska and would be glad to participate in future aspects of the planning as you believe would be appropriate. I will be giving additional thought to the process that could be used to develop the plan and look forward to discussing this with you.

Please feel free to contact me should you have any questions.

Sincerely,



Brian L. Barels
Water Resources Manager

September 2, 2009

Sen. Chris Langemeier
District 23
Room 1210
P.O. Box 94604
State Capitol
Lincoln, NE 68509

Senator Langemeier:

This is my response to your request for LR-128—State water plan. I am speaking as an individual. I live in the Republican River Basin, and my farm land is located in the quick response area. I am one the task force members. I was also on the Republican River Advisory Board under Governor Nelson and Governor Johann from 1994 to its end in 2003. I apologize for this being so long, but feel it is necessary to illustrate my point.

My feeling is the state needs to be the one to regulate and determine the amount of use of water in each river basin. Until that happens, it is no different than the county assessor and the county commissioners without state mandates; they would look out for their own personal interest in a lot of instances. When they don't set the valuation properly the state steps in. Almost all, if not all other state agencies operate in this manner, except the NRD's.

Since 1994 I have witnessed things the NRD's have said they were going to do and then stall. In the Platte they were suppose to have a plan in three years and then implement it. I doubt if all of the Platte NRD's have a plan yet to implement. Some NRD's feel like they are the overseer and protector of ground water pumpers and do everything in their power to allow more pumping. In the task force, when we were trying to come to a consensus on the Republican River Basin being over developed, Dan Smith, MRNRD manager fought it and wouldn't allow a consensus. After several meetings where no consensus could be reached, Roger Patterson, DNR administrator said the ruling on the compact settlement would take care of controlling the water, so the representatives wanting the over appropriation ruling gave in. The settlement required no new well drilling. Little did we suspect the NRD's were going to allow considerably more than 200,000 new irrigated acres, along with new wells. There are statutes on the books to allow the treating of wells drilled after 2000 different but no attempt has been made to even look at that. The NRD's could shut off all irrigated acres that were not certified in the 1998 thru 2002 period. The intention to stop new irrigated acres to be added. The URNRD and the MRNRD set their allotment way above what is needed because some irrigators do not want to invest in water saving techniques, hire labor for better management of water, or rotate crops. The point is there are several other examples, but when a board gets a

majority of directors that look out for a special interest, others are going to get hurt. Some boards are elected at large, and others not depending on irrigators special interest. I'm thinking there are only 3 or 4 shall's in the ground water statutes and the rest are passive words like the word may. In a Water Policy Task Force Meeting about 3 or 4 years ago, Dave Cookson stated the task force shall not talk about water or money in relation to the Republican River Basin, and that still stands. Around 1998 I went before the MRNRD board and ask them to protect our surface water supply. I was told that it was the URNRD that was taking the water and the MRNRD had no control over them. I was also told that Nebraska was in a lawsuit with Kansas and no action would be taken. Had the NRD's did what Roger Patterson requested, we would not be in trouble.

US Supreme Court Special Master Vincent L. McKusick said In the Republican River Basin "Nebraska violates the Compact if, as a factual matter, Nebraska's groundwater pumping, whether from alluvial or tableland wells, depleted stream flow in the Basin to the extent that Nebraska exceeds its allocated share of virgin water supply". (Pg 44 & 45) "The Republican River Compact restricts a compacting State's consumption of groundwater to the extent the consumption depletes stream flow in the Republican River. His ruling has determined ground water, the alluvial area and surface water are the same water.

You cannot have DNR handling surface water and allowing the NRD's to deplete the aquifer to the point there is no more surface water. Contrary to what is being said by State and DNR officials about the cause of reduced surface water flow, two studies that had been done by the United States Department of Interior, in cooperation with the Conservation and Survey Division of the University of Nebraska were done in 1976, Open File Report 76-498 and 1978 Water-Resources Investigations 78-38 predicted with a high degree of accuracy of what has happened to our river flow. The studies state "surface water runoff as overland flow is negligible and ground water discharge to steams account for most stream flow". The 1976 report shows that 80,000 acre feet of water flowed out of the URNRD underground to the MRNRD each year. The 1978 report says "Ground Water in storage and ground water discharge to surface streams within the study area comprise most of the exploitable water in the study area.

As a lifelong resident and one who was here when the surface irrigation was put in during the 50' and early 60's, plus being here during the drought of the 50's I see there are repeated droughts and every time when the river flow comes back, it is quite a bit less river flow than before the drought and river flow chart show it. By allowing the continuing depletion of the aquifer beyond a stainable levels and then allowing the transferring water from quick response areas to the areas of abundant saturated thickness, or allowing the buying surface water to allow irrigators to continue to pump over what is sustainable, it will not be long before there will be very little surface water and it would be a permanent shut down in a so-called quick response area, since it can and will be expanded. The NRD's then say they are

disconnected and it doesn't do any good to restrict pumping. Look at the above studies and you can see what has happened and what will happen unless a change is done.

Why are we at this point and who is responsible? The Legislature with the passage of LB 375 in 1982 allowed ground water irrigators to deplete the water required for the compact requirements and surface water irrigation within that individual NRD without any regard to the needs of the water flow for compact requirements or the already federal and state granted irrigation rights of surface water irrigation districts. The legislators had reports and studies that told them what was happening and what was going to happen. The legislator knowingly passed this bill allowing water already appropriated to irrigation districts and the compact to be depleted from the aquifer. First in time, first in right was the perceived law prior to LB 375 and was the main curtailing factor for irrigation well drilling control. The URNRD had already put on controls granted by the legislative bill LB-577 in 1975. Prior to passing of LB 375, the legislative hearings on ground water legislation point out that legislation was for protection of prior irrigators. The Upper Republican Natural Resource District, Twin Platte NRD and Senator Vickers district representing the area east of the URNRD, were unanimously saying that LB 375 is not a good bill. Kansas and Colorado had already placed a ban on new wells. It was known it would lead to future problems and the senators that were pushing the LB 375 legislation said future bills would be passed to keep problems from happening. It was passed for economic gain for Nebraska and can be shown from the closing statement on pg 6966. SENATOR KREMER: "I think Nebraska can take care of its water and I think we are going to, if the whole world hangs together, we are going to come forth as the greatest agriculture state in all the United States of America." I move that we advance LB 375 to E & R. Even today, economics is used as an excuse for not addressing what needs to be done.

It needs to be pointed out that when DNR was negotiating the settlement, it was presumed that the NRD's were not and would not expand their irrigated acres after the settlement. I'm enclosing some documents that show what Roger and Ann were trying to do and due to no power to require anything failed and then resigned. Those involved in the settlement didn't plan on the NRD's not trying to come into compliance. I have enclosed 5 documents showing what happened. Had the NRD's not expanded certified acres beyond the 1998 thru 2002 and followed DNR's plan, we would have been out of compliance. Prior to 2002, I think there was only one water short year and the next year cleared that off.

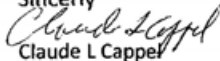
The statute is Every landowner shall be entitled to a reasonable and beneficial use of the ground water underlying his or her land subject to the provisions of Chapter 46, article 6, and the Nebraska Ground Water Management and Protection Act and the correlative rights of other landowners when the ground water supply is insufficient to meet the reasonable needs of all users. The NRD's will never enforce "the correlative rights of other landowners

when the ground water supply is insufficient to meet the reasonable needs of all users"
unless the State requires it.

Correlative right, as determined by a court case Springer v. Kuhns, Cite a 6 Neb. App. 115, filed October 21, 1997 "Waters. The owner of land is entitled to appropriate subterranean water found under his land, but he cannot extract and appropriate them in excess of reasonable and beneficial use upon the land he owns, especially if such use is injurious to others who have substantial rights to the water. If the underground water supply is insufficient for all owners, each is entitled to a reasonable proportion of the whole.

In closing, I feel the State of Nebraska is responsible for where we are today regarding water issues. Letting the NRD's manage the water is only going to continue to make it get worse. Nebraska had good water law until 1982. With the passage of LB-375 it has become the State of Nebraska responsibility to fulfill prior obligations that are now trying to be taken away. Unless the State takes responsibility for the water problems that have incurred and enforce the correlative right of all irrigators in a river basin instead of giving in to the NRD's, things will get worse. Everyone I have talked to who irrigates in the quick response area say they are willing to share equally. Otherwise there will be battles if the ones who depleted our water supply, get to keep pumping and depleting the aquifer, while quick response get shut off and if and when they can resume pumping, there is less water available to meet compact needs.

Sincerely



Claude L Cappel

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McCook, NE 69001

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STATE OF NEBRASKA



DEPARTMENT OF NATURAL RESOURCES
Roger K. Patterson
Director

April 9, 2003

IN REPLY REFER TO:

Mike Johanns
Governor

Lower Republican NRD Board
706 Second Street
P.O. Box 618
Alma, NE 68920

Dear Board Members:

As you know, the settlement of the Republican River Compact litigation with Kansas may require that in most years Nebraska maintain, or in some years reduce, its existing levels of water consumption within the Republican River Basin to comply with the Compact. That requirement creates challenges for both the Department of Natural Resources and each of the NRDs within the basin. I am aware that the Lower Republican Natural Resources District ("LRNRD") is diligently working toward the adoption of rules and regulations necessary to comply with the Compact. To assist you in drafting those rules, I would like to offer some thoughts and considerations.

To begin with, the certification of irrigated acres should be considered a priority. We suggest that you establish certified irrigated acres using lands that were actually irrigated at least once between 1998 and 2002. No operator should be permitted to irrigate lands that have not been irrigated at least once during the 1998 through 2002 timeframe unless there was a special circumstance, such as enrollment of previously irrigated acres in a federal program that prohibited irrigation, such as CRP. Another exception may be the use of ground water to supplement lands irrigated under a surface water appropriation. As you know, there are a number of acres within the alluvial valleys that receive surface water and may also be served from ground water wells. In these cases where the ground water well has not been used in the past five years because adequate surface water was available it would be appropriate to certify those acres since it may be necessary to irrigate them with ground water in the future.

We recognize that this is a particularly difficult issue for the LRNRD given that approximately 300 new wells have been drilled just prior to the moratorium being implemented. The consumptive use of water within the LRNRD will increase significantly if and when those wells are placed into service. For instance, if each of the 300 new irrigation wells irrigates 100 acres of new land, there will be an additional 30,000 acres of new lands irrigated in the LRNRD. That level of increased water consumption will increase the amount of cutback within the LRNRD that will be needed in a dry year. This means adding new acres will result in smaller allocations to all irrigated acres and that fewer acres can be irrigated in dry years. The NRD may want to

c:\rharc\patterson

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NRD director explains IMP negotiations

Dear Editor:

I would like to take this opportunity to respond to WaterClaim's letter in last week's paper.

The first thing that I would like to explain is the reason why the URNRD board went into the "WaterClaim challenged" executive sessions.

During the time when the URNRD was negotiating with the DNR on the current Integrated Management Plan, the five-member negotiating team, along with our attorneys, worked to obtain the best possible agreement for our district.

During this process, the negotiating team wanted to share the details and strategies of the attorney-client privileged information with the entire board, but had we done so in open session, everyone, including the DNR, would have known our board strategy.

If we had disclosed this information in open session, I feel that the resulting IMP would have been more restrictive for our district. Unfortunately, this resulted in us not being able to discuss that privileged information with the rest of the patrons of the district. We weighed the good and the bad of that decision, and I still today feel we made the best decision we could for all water users in the district. No votes were ever taken, and no decisions were ever made in executive session by the URNRD.

I have, and I believe that every URNRD director has, a great respect for the laws of the State of Nebraska. Board members are sworn to uphold the laws of the State of Nebraska. Board members are not to disclose the details of what is discussed in executive session. I feel if we disclose that information we are violating the

oath we took to uphold the laws of the State of Nebraska. I feel very strongly that we went into executive session properly and our actions in executive session were proper. Since we strongly feel we have done nothing illegal, accepting WaterClaim's offer is not an option.

Steve Smith is basically accusing this board of conspiring with the DNR to get a bad deal for the URNRD. In case you have forgotten, the farms of NRD board members are subject to the same NRD rules and allocations that everyone else is. To believe this accusation, you would have to believe that all 11 board members would sit in a room and knowingly engage in illegal activities resulting in ruining their own families, farms, and communities. If you think Steve's accusations about the integrity and actions of this board and its directors are true, I would please ask you to think again!

During the development of the integrated management plan, there was much disagreement over what would be each district's share of the state's allocation.

At first, some people at DNR suggested that we should set our allocation at a sustainable level, which they estimated to be as low as six to eight inches. After the board and the irrigators at information meetings explained how an allocation like that would destroy our district, the DNR later tried to convince us that a 10- to 11-inch allocation was needed. After several more months of negotiations, the current IMP was adopted with an allocation of 13.5 inches.

Steve asked me one night after a board meeting why, with all the problems facing irrigators in the

URNRD, we weren't trying to sell our family farm. He caught me off guard so I told him that I had laid awake more than one night wondering just that.

After further reflection, the answer to that question is this: I truly believe in the people in this district. I believe that irrigators will continue to adopt the latest ideas and technologies to enable them to grow economically viable crops with less irrigation water applied.

I believe this because it is what we have already been doing for more than 25 years!

I know that compliance with Kansas will not be easy. We will continue to ask the state for their assistance in this matter. Decisions the state has made in the past have greatly contributed to the problem we are in.

To answer some of the questions I have received from neighbors, the URNRD has no plans to change your (and our) allocation for the 2006 and 2007 seasons. I would encourage you to adopt any management practices feasible that consume less water, but the economic outcome of any of these changes must be considered.

The biggest waste of water is to not have enough water to finish the crop that is planted. That is why this board fought to keep carry-forward and pooling as management tools so that we use our water allocation as efficiently as possible.

If you have any questions, please call. If we work together with the state and other districts involved, consider all options available, I believe compliance with Kansas and a future with irrigation are both possible.

Tom Terryberry, Imperial Upper Republican NRD Director

VFW AUXILIARY NEWS

The regular meeting of VFW Auxiliary #4688 was held on Monday, April 9 with 14 members present.

p.m. CT. Lunch will be served before the meeting.

Department meeting will be in Grand Island June 15-18. This will

Third Congressional candidate forum in Hastings

The South Platte United Cham-

Republican River Compact Compliance

March 29, 2004

Draft Notes

Attendees:

Brad Lundeen	John Thorburn
Mike Clements	Phyllis Johnson
Bryan Lubeck	Ray D. Winz
Bob Hipple	Stan Moore
Justin Lavene	Kevin Fornoff
Dave Cookson	Gayle Haag
Roger Patterson	Dan Smith
Ann Bleed	Terry Martin
Jonathan Bartsch	Kenny Owens
Brad Edgerton	Greg Pelster
Bob Merrigan	Tom Terryberry
Gary Brown	Jack Frear
Mike Thompson	Nelson Trambly
Dean Large	

Agenda

Welcome and Agenda Review

Discussion: Issues and Concerns

- Establishing a baseline
 - Percentage reduction from baseline to address lag effect
- Dry-year gap responsibility
- Mound Credit

Procedural Issues and Next Steps

Summary

In order to apply the principles of fairness to meet the compact obligations and still make the regulations acceptable within each NRD, the following will be considered:

1. Five-year average 1998-2002 depletions and associated pumping will be used as the baseline for allocating the available water supply. Some agreement will be made on the total pumpage numbers with each NRD.

in existing pumping numbers. DNR will work with each NRD to establish that the numbers are accurate.

- Establish the pumping based on the 1998-2002 depletion. Look only at Upper, Middle and Lower and treat Tri-Basin differently related to the mound.

Each district should come forward with their idea of how to comply and let them present that to the group after the next board meeting.

MRNRD concern is that the pumpage and acre numbers are too low.

Wells in other NRDs do not contribute much to the streamflow depletion – 0%.

URNRD wanted group to note:

Since 1998-2003 the number of acres added according to the State well registration data base by NRD is:

URNRD	8,600 acres
MRNRD	54,311
LRNRD	86,410

URNRD can live with the baseline of pumpage from 1998-2002 but want people to recognize what URNRD is giving up. These numbers are probably high because people report higher than reality numbers and some wells in the data base were drilled previously and are just now being registered.

MRNRD could probably support using as a base pumpage 1998-2002

LRNRD – we realize we have added a number of acres and in retrospect, allowing people to add acres until end of 2004, we didn't know how bleak the outcome would be. We still do not see that we have had a problem because the water table was not declining. We were supplying all the water Kansas needed from the LRNRD. The problem is perceived to be caused by pumping above Harlan Co.

However, the compact is not based on the amount of water passing Hardy, the compact is not a delivery compact.

Roger sent a letter to the LRNRD in early 2002 indicating they should not increase the number of irrigated acres in the district.

Tri-Basin is the one district that is not contributing to shortages and in fact is providing extra water and in spite of that the TBNRD will likely be limiting irrigated acres within the district. So 2004 will be the year in which irrigated acres are limited.

Compliance with the compact is whether our CU is more than our allocation, although the amount of water going into Harlan does cause us to be in a water short year.

Economic and Legal Issues

- What study results are available both for NRD operations and for District wide regarding potential economic impacts?
- What are/will be the differences between LB 108 and LB 962?
-
- Changes in allocation have significant property impacts, these impacts on city and county government must be evaluated.
- Impacts on the NRDs
 - Legal costs of District members suing the NRD for implementing the Compact
 - What will be the financial impacts on NRDs budget as result of fulfilling the Compact Requirements?

Mound

- Mound credit dwindling how will this be addressed
- Mound credit – who is responsible if there are increased depletions?
- How does the mound need to be isolated in the compact –how is the beneficial use of the mound treated in the Compact?
- Water table under mound is rising now but lining of ditches and other conservation methods will lower the water table

Concerns with the Ground Water Model

- Accuracy of data input for MRNRD – acres irrigated, pumping rates these need to be corrected
- Questions about the model – is it truly reflecting the depletion from a particular area or class of wells
- How often will the model be adjusted?
- Need flexibility so if things change in the future, we can adapt
- What opportunities exist to improve the data?
- There needs to be a distinction made between the use of the model for the Compact vs. use by the NRDs for planning. It was noted that the model used for the Compact was not created for intra-NRD issues.
- From TBNRD standpoint, will be difficult to change concept to allocations when have been worrying about water table being too high for years. As long and CNPPID canal is in operation, will probably o.k. but if that changes there could be a problem

Consumptive Use

- Perhaps the NRDs could cooperate on increasing or optimizing the water supply – cloud seeding etc.

ground water levels from 1981-1985 as the floor of the water table. In sum, TB wants to protect the mound and see that it remains stable. This will maintain the credit that is going into the Republican basin. It is unlikely that acres in the TBNRD acres will increase because when convert from gravity flow to center pivot, there is usually a loss in acres.

Will there be consideration for alluvial wells that pump more but may have less consumption? A: don't think should make the distinction to allocate but when each NRD makes their allocations, perhaps could make distinctions based on alluvial or date of well completion etc.

Why should we use an average as opposed to a single year period? Because pumping jumps around a lot from one year to another.

Economic Impact

An economic study may not be required by law but politically will be necessary. A study has been contracted by several power districts and the commercial community.

Modeling Numbers and Questions

Regarding the model – if people want to schedule a separate session to review the model, we should schedule a technical session for those interested rather than spend time on this issue with the larger group.

Separate DNR follow-up meetings with the LRNRD and MRNRD will be scheduled to discuss the individual NRD total pumpage numbers.

Coordination with SW Irrigators

How do we involve the surface water irrigators? DNR will meet with the surface water irrigators specifically at the April 5th meeting.

Next Meeting(s) and

The next meeting will be held April 20th, 2004, 10:00 to 4:00 in Cambridge. Group members will hold both May 6 or 7, 2004 for future meetings.

Agenda items for the April meeting include presentations by individual NRD regarding how they will meet the Compact Obligations, based on input from elected boards. Each NRD is responsible for communicating the concepts outlined above in the summary to their elected boards.

The meetings will continue to include only a small group from each NRD and will not be publicly advertised.

Claude Cappel

From: Roger Patterson [rpatterson@dnr.state.ne.us]
Sent: Monday, November 10, 2003 10:18 AM
To: 'Claude Cappel'
Subject: RE: Water Task Force

Thanks Claude. Glad you're continuing to think on this.

I think what we are going to do in the Basin Compliance Plan will be better for surface water than a requirement to maintain groundwater levels at the spring 2002 levels.

We plan to limit groundwater use to no more than 2002 levels and reduce gw use by about 20% in dry years (using correlative rights) to meet compact compliance. We also plan to do some studies in both the lower basin and of the Enders service area to see what else can be done to make the system work better.

I think this will go a long ways to making the system sustainable - although there is no question we overdeveloped.

-----Original Message-----

From: Claude Cappel [mailto:ccappel@ocsmccook.com]
Sent: Sunday, November 09, 2003 5:09 PM
To: Roger T Patterson
Subject: Water Task Force

Dear Roger

Since the meeting last Tuesday I've been thinking about a way to protect the Republican River Valley Irrigators and the areas that do not have deep profiles of water. I don't feel comfortable with no language since this task force was supposed to address conflicts between water users. I'm not sure there is any goal to maintain even what we presently now have in the valley and the adjacent areas. The requirement of maintaining surface water flows at or above the 2002 levels that was brought up earlier could be construed to require little of nothing since the rivers are already dry.

Would it be appropriate to bring it up at the next meeting since the executive group has an agreement? If it is appropriate, would something like this work?

Manage the Republican River Basin where there will be no additional declines in the water table levels in the Republican River Basin greater than the spring readings of 2002.

I feel this could stabilize the water use in the basin to the available supply. This would need to be done based upon the correlative right of other land owners when the ground water supply is insufficient for all users over a broad region. The model could be used in the determination of the boundaries of control areas.

One of my fears is if this is adopted with out the correlative rights insert, there could be a move to just shut of the area of decline and not consider the reason it declined. There are areas that have/had a good aquifer and just have too many wells. There are other areas that had good water supplies and due to pumping from other distant areas have lost their water supply.

As you have heard many time, the Middle Republican NRD does not feel they have any obligation for surface water and have stated it is the DNR's responsibility. They have stated they are there to protect the ground water pumpers. I'm not sure the alluvial area doesn't falls into this category.

Let me know how you feel about this. Maybe DNR will already take care of this in the basin plan. If so, I won't worry about it.

Claude Cappel

From: Ann Bleed [ableed@dnr.state.ne.us]
Sent: Monday, January 19, 2004 9:32 AM
To: 'Claude Cappel'; 'Roger T Patterson'
Subject: RE: Request and Questions

Importance: Low

The total irrigated acreage by NRD is as follows: URNRD - 386,230; MRNRD 243,996; LRNRD 281,719; TB 445,895. All but the upper are based on NASS statistics. The Upper is based on NRD data. As far as you question about 9 inches and the model, we do not have a good answer for you. We have not looked at what it would take to maintain 1998 flows. Also, the model does not look at the number of acres being irrigated, just the volume that was pumped based on power records. The number of inches per acre really depends on the number of acres being irrigated and that is a number that is surprisingly hard to obtain. I think we need to keep thinking along the lines you are suggesting however. Such schemes may get us to where we need to be with a minimum of heartache. Ann

-----Original Message-----

From: Claude Cappel [mailto:ccappel@ocsmccook.com]
Sent: Monday, January 12, 2004 10:00 AM
To: Roger T Patterson; Ann Bleed
Subject: Request and Questions

Hi

Could you send me the irrigated acreage numbers for each NRD district you had the other day?

The two USGS studies I've read (1974-1996) that were on the Upper Republican NRD area led me to believe that 9 inches of allotment would keep depleting the Frenchman and the streams that feed into the Republican. I'm assuming if that is the case, a lower numbers would be required, with and without the buy up. For my own clarification, would 9 inches for allotments for the basin keep flows in the rivers at least at or above the 1998 average flow levels? What does the model show it would take to sustains river flow at the 1998 average flow level?

I'm going off of the following assumptions. (1) An inch of irrigation water properly applied is worth \$15.00 an acre inch. (2) There is a lot of land that is in production now that should not be and it would not take many dollars to buy out the irrigation use. (3) Economics for both the cost of units of crop production and local areas need to be considered (local means many things including counties, towns, townships and the river valleys).

Assuming in dry years the alluvial could be compensated (bought out by competitively bidding) with something like a buy up, and all other wells have the same set allotment, what does the model show for a number?

One way a buy up could work could be, if the basin NRD's set the water allotment at 9 inches, (what ever is needed but for now say 9 inches) then allows a irrigator to buy up to a maximum of 15 inches at \$5.00 per acre inch. This money would be put into a account. It would be used as following. First, buy down or buy out the alluvial and/or the surface water, in dry years, to meet the compact requirements. Second if there is extra money after the first requirement is meant, buy out irrigated acres on a competitively bid bases until the basin is back in balance.

Claude

Lage, Laurie

From: Eugene Glock [eugeneglock@risingcity.com]

Sent: Thursday, September 03, 2009 9:11 AM

To: Sen. Langemeier, Chris

Subject: State Water Plan

Here are my thoughts, Senator. This got more lengthy than I intended but this is very complex issue. I would really enjoy the opportunity to sit down with you and discuss my ideas if you wish. I will try to make one of the hearings but I already have conflicts on both of those dates.

Please call me or contact me in your most convenient way if you have question about any of my ideas.

Thank you,

Eugene T. Glock
402- 542-2194 Home
402-367-7553 Cell
eugeneglock@ risingcity.com

9/3/2009

Eugene T. Glock
Cedar Bell Farms
3031 G Road
Rising City, NE 68658

Senator Chris Langemeier, District 23
Chairman, Natural Resources Committee
P.O. Box 94604
State Capitol
Lincoln, NE 68509-4604

Dear Senator Langemeier:

Your request for information regarding the requirements of a state water plan is very timely. There are quite a few of us who have been discussing this issue. A good deal of what I have to say has been developed through discussions with others who share a desire to have a plan to manage our water resources so that we can fully develop these resources but not over-develop usage to the point that we are mining water rather than using it to its fullest efficiencies while providing for future generations to have access to the abundant water resources we have enjoyed for so many years. I will try to present brief ideas on what is needed and if you want further expansion on these requirements, just let me know and I'll try to fill them out more.

I think the first challenge will be to develop and adopt an acceptable definition for sustainability. To me this means sustainable in perpetuity, not for a determined number of years. This should be the foundation for any water plan that is developed.

Then to develop a workable plan, it will be necessary to provide support for research to fill in the gaps in our knowledge base for the hydrology of the state. While we think we know quite a bit about our water resources, there are clearly areas where the knowledge is based primarily on extrapolation of data and making assumptions about what is actually in the aquifer and what certain actions will do to that aquifer. I would suggest that the University of Nebraska Water Center and the Geological Survey folks could provide good insight into the research needs. Dr. Jim Goeke probably has the best overall knowledge in this area.

Along with research in the hydrologic area, I think we probably need some review, maybe this has already been done, of current laws regarding water that are still in force and the implications they hold for developing an up to date water plan. If we are to use our water resources efficiently, we may need some clarification of water transfer laws and laws governing water as a commercial item. Probably the University College of Law would be the best resource to outline current laws and what possible changes might be beneficial in developing a water plan that efficiently uses all our water resources. This information could also help in dealing with crisis situations as they arise before we can develop a workable water plan for the state.

The plan will need to determine, I think on a watershed basis, the condition of the water resources in each watershed. This will require the development of a system, I prefer to call it a budget, to measure what water is available from all sources- groundwater, surface water and precipitation. Then a measurement of the uses, and I mean all uses not just irrigation or agricultural but domestic use, lawns, roadsides, manufacturing, etc., will need to be compared to the water available. I feel this will need to be done both on an annual and a longer term average situation. We know that there is tremendous variation in precipitation in Nebraska in any given area from year to year. If we are to provide a plan that provides for full development but not overdevelopment, it will have to be flexible enough to be adjusted when long periods of drought come into play or when we are blessed with an abundance of precipitation. Once the "budgets" for each watershed are developed, they will need to be combined for a statewide plan. Maybe a better alternative would be for development of a state plan requiring sustainability and then seeking advice on measures to achieve that goal from the various NRDs based upon conditions in their particular area.

I think it will be necessary to separate the planning functions from the regulatory functions. The current system has contributed to the conflict between ground and surface water users and between urban and rural users. I am not sure what is the best agency to carry out the planning process once a framework for the water plan is adopted. The makeup of the group that develops the water plan will be critical. It will need to be as representative as possible of the various user groups and areas of the state. There is no doubt in my mind that there are going to be users who will feel that they are being picked on unfairly when it comes to balancing a water budget. My ideal, and I am certainly open to suggestions on this, would be an entity with expertise in water resources and including someone with water law knowledge but isolated as far as possible from the regulatory agency. It would also be beneficial in gaining acceptance of the plan if the membership of the entity that develops the plan were not perceived to be beholden to a particular administration or political party. I think something on the order of the old Soil and Water Conservation Commission of the 60s and 70s would be a good model. The membership, as I recall, was nominated by the various water and conservation entities. Something of a similar nature could certainly be developed now. I would like to see this entity also act as the planning entity for water and conservation activities after the initial water plan framework is developed. I realize that this smacks of more government with more expense but I think it will, in the long run, save governmental intervention at the state level. It will also be much more efficient and cost less than dealing with emergencies as they arise under the current system.

This planning entity will need to take advantage of all the knowledge available through the University and any other agencies or organizations that can provide accurate information to them. I really believe that it may require some modification of our current water laws if we are to truly develop and carry out a state water plan. It seems to me that one area that needs to be addressed is the differing roles of the NRDs and DNR. NRDs are in charge of regulating groundwater, whereas DNR is charged with regulating surface water. At the time these departments were formed, it was assumed that the two issues were separate; however, there is no question that groundwater and surface water are

interrelated and it seems to me that having two different agencies regulating water leads to a great deal of inefficiency. There needs to be one agency dealing with both surface and groundwater and we need to recognize that they are interrelated and interconnected in significant ways.

The legislation developed by the Task Force is a good start but certainly does not provide all the answers. For example, I think the state water plan will have to deal with water banking and water transfers in more detail than is currently the case. It seems that the area of transferring groundwater to surface water and vice-versa as well as transferring water between different "uses" is unclear. It may also be necessary to provide for transfers of water between basins if we are to really fully develop our water resources. I think there will have to be a enough "teeth" in the water plan that, where restrictions are needed, whether permanently or temporarily for drought conditions, the agency charged with carrying out the terms of the water plan will be able to do so with a minimum of delay.

To summarize. I would like to see the State Water Plan provide the framework for assuring that we can fully develop our water resources but also assuring that those resources will be available for all future generations. Once the framework is established, the actions required to meet the goals of the plan should be left to the individual watersheds with state oversight if needed to assure cooperation between adjoining watersheds when actions are needed across watershed boundaries. This will require enough specificity to give those in the NRDs, if they are given the responsibility, cover for difficult decisions. If that cover is not there, directors who make the proper difficult but unpopular decisions will be replaced at the first opportunity and it will be nearly impossible to maintain necessary restrictions. I am confident that if the necessary requirements are required by the state, local boards will find the most effective and efficient way to manage the water resources in their areas.

I appreciate the opportunity to present my views. I applaud you for your willingness to address an issue that is so important to the future of water development in Nebraska. If you desire more details of any of my suggestions, I will certainly be willing to discuss them with you or your staff.

Sincerely,

Eugene T. Glock

415 Lincoln St.
P.O. Box 740
Holdrege, NE 68949-0740



CENTRAL
Nebraska Public Power
and Irrigation District

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September 9, 2009

The Honorable Chris Langemeier
Chairman of Natural Resources Committee
PO Box 192
Schuyler, NE 68661

Dear Senator Langemeier:

Thanks for the opportunity to comment on the issues that need to be addressed in a state wide water plan. We think a state wide water plan is a great idea for the State of Nebraska to resolve a number of issues.

As you know, Central's primary issue is the reallocation of its surface water to groundwater users within the North Platte Natural Resources District (NPNRD). We estimate that over 100,000 acre feet annually is lost from Lake McConaughy inflows due to upstream groundwater development within the NPNRD. We believe that Nebraska law should provide the NPNRD with an incentive to either regulate groundwater in a manner that does not interfere with our surface water appropriations or reasonably compensate for the interference. This becomes especially critical for recreation interests, the largest power plant in the State of Nebraska and Central's irrigation customers during a drought. Without an incentive in Nebraska law, the NPNRD will continue to regulate groundwater in a manner that harms Central's surface water appropriations and associated water users.

Thank you for your consideration. I would appreciate the opportunity to visit further regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Don Kraus".

Don Kraus, P.E.
General Manager

jh



**CENTRAL PLATTE
NATURAL RESOURCES DISTRICT**
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September 10, 2009

Senator Chris Langemeier
Chairman of the Natural Resources Committee
Room 1210, PO Box 94604
State Capitol
Lincoln, Nebraska 68509

Dear Senator Langemeier:

In response to your request on ideas about and needs for a State Water Plan, we offer the following comments.

There are numerous water project and program needs across the State that are critical to Nebraska in order to protect our economy and/or meet our compact or agreement commitments to other States. An example is the Platte River Program where Nebraska has agreed to assist in carrying out several water action projects designed to increase flows in the Platte River to benefit threatened and endangered species. Nebraska has "reserved" part of the water from several of those projects to meet Nebraska's water commitments to that program.

Nebraska has a need to be an active participant in the planning of these projects in order to not only protect Nebraska's interest on the development of any project that utilizes water out of the Platte or any other stream in Nebraska, but to also assure Nebraska's interest in the "reserved" water is protected.

A State water plan and a planning department or group could provide an outline of each of the projects Nebraska should be involved in as a State and the level of involvement both financial and planning.

In addition to outlining the State's interests in water projects, a State Water Plan should also be an inventory of general water issues and needs across the State with a prioritization of water issues or needs of the public stakeholders for the purpose of determining State financial assistance to water users and planning. Included would be such things as:

* Identification of research needs (example: geologic investigations to determine aquifer characteristics)

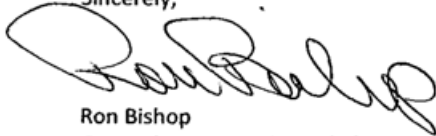
* Identification of planning needs (example: a groundwater model to determine groundwater sustainability and/or impacts on stream flow)

* Identification of the priority rankings of various projects and activities seeking State financial assistance

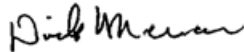
* Identification of legislative needs to better manage the State's water resources

The above is a brief outline of some of our thoughts. We would be pleased to visit with you in more detail if you would ever desire.

Sincerely,



Ron Bishop
General Manager, Central Platte Natural Resources District



Dick Mercer
Board Member, Central Platte Natural Resources

The Honorable Senator Chris Langemeier
State Capitol
P.O.Box 94604
Lincoln, Nebr.
68509-4604

Dear Senator Langemeier

In response to your letter about a state wide water plan. I would encourage you to not be in a hurry. I have many friends in western Nebr. And they all tell me that when their Integrated Management Plans are completed, in place, and working that we will see more water flowing in the Platte. In addition to this the State has agreed to participate in the Platte River Recovery Plan, and I would anticipate that this will make some changes in the river flows.

I believe that water is and will be a major player in our States economic growth, hence we need to use as much of it as we possibly can (wisely of course). What then do we do in a prolonged dry spell?? We could certainly offset some declining stream flows with ground water pumping, but not for seven years as the dry spell the western part of our state just went through, and not in the Republican at all. So we would need some plan to reduce usage at times like this—easier said than done.

Finally I would encourage you to have a group of individuals that are water users to help put the plan together, that is irrigated ag., agriculture, O.P.D., business, industry, and the water departments of towns and cities. You will of course need D.N.R. and UNL for their technical input and Game and Parks for the endangered species. I would encourage you to lean the group to water users as I think you will have a plan that is more practical and more useable.

Thank You



Lloyd Nellor

11686 11th Rd.
Beemer, NE 68716-4064

Dave Nelson
1757 B Road
Upland, NE 68981

August 31, 2009

Senator Chris Langemeier
State Capitol Building
Room 1210
Lincoln, NE 68509

RE: LR 128 – STATE WATER PLAN

Dear Senator Langemeier:

Thank you for providing an opportunity to comment on a state water plan as outlined in LB 128. I would urge a state-wide view of the impacts of water regulation decisions that also includes participation and involvement of those regulated.

I am breaking my comments down into categories as follows:

Water Retirement Programs

The recent water policy tax force legislation adopted by the Nebraska Legislature, LB 962, is not complete. One of the crucial issues left pending by the legislation is funding sources for water programs. Local NRDs have limited resources to utilize for the management tasks outlined and the amount of water retirement programs that the State of Nebraska has outlined as goals.

Under the Platte River Recovery Implementation Program, which was approved by Governor Heineman, it has been outlined that 250,000 acres need to be retired from irrigation in the Platte Basin in Nebraska over the next 15 years. This amounts to more than 1/4th of the irrigated acres in the basin. Using a conservative estimate of \$1,200 as the difference between irrigated land and dryland, the amount needed to retire this number of acres is \$300 million. Again, this amount is conservative in nature and could be much higher. If the state makes a decision to regulate those acres out of the economy without compensation, it amounts to a substantial economic hit to the agriculture industry and local economies immediately and into the future.

A preferred option would be to provide the NRDs with the necessary authorities to raise funds to finance some of these programs locally by some means other than additional property taxes.

The Republican River Basin needs to also have the financial ability to finance local programs. As you are aware, the property tax authority for financing compact compliance programs has been ruled unconstitutional. To complicate matters, the occupation tax is also being challenged in court and a decision will not be issued for some time. Time is of the essence in the basin as the districts can not sit back and wait before implementing programs. It is easy for some to only lay blame and not offer solutions in the area. However, I would urge that we look beyond the

short-term political answers and look for long-term solutions that provide for economic opportunities for the residents of the basin.

Water Quantity Needs

I don't need to remind you of conflicts that exist between surface water irrigation and ground water irrigation. Although the argument always seems to be between irrigation districts and NRDs, it is really an issue between farmers and will only get worse until the problem is resolved.

Many of the surface water irrigators have converted to groundwater irrigation over the years. The irrigation technologies available today favor groundwater irrigation for farmers. It is reliable, can be turned off when it rains, less labor intensive, and uses much less water.

Ground that was once irrigated with three feet of surface water per acre in the 1950's, is now irrigated with less than a foot of groundwater. However, many of these acres are still under surface water contracts and the landowner is required to pay for surface water not used. This can cost anywhere between \$15-\$60/acre for water not used. Some preliminary estimates of acres converted to ground water are as high as 70 percent in some areas of the state.

Nebraska needs to take a serious look at this situation and figure out some way to assist producers and landowners in addressing issue. Ignoring it does no one any good. If they can be provided some guarantee to maintain irrigation while freeing up surface water for other needs – such as Republican River Compact or the Platte River Program -- it might alleviate the financial burden facing the NRDs and the State of Nebraska at a minimum cost to the overall economy.

Forcing the farmers to continue to pay for something they don't use – especially an input as vital as water, seems to be a waste of resources. At some point in time farmers production costs will force a change and it is worth at least some discussion now rather than waiting until that time comes.

Water Quality

A state water plan should not forget about water quality issues. Nebraska has many areas of the state that have water quality problems. Protecting this vital resource from contamination is very important to all Nebraskans. Although nitrates seem to be the highest concern state-wide, there are other potential contaminants that need to be monitored. The NRDs have implemented several programs to assist producers and landowners to control, limit the risk of, and remediate water contamination.

The Nebraska Department of Environmental Quality has been of tremendous assistance to the NRDs in development and implementation of water quality programs statewide. Some of these programs include, but are not limited to, Community Wellhead Protection, landowner cost-share and education programs, chemigation inspection and training, NDEQ 319 Programs, and lake and stream quality standards. This key partnership must be maintained and reinforced so the water quantity programs do not suffer and the water quality is protected for future generations.

Missouri and Nemaha River Issues

Two of the issues on the horizon are the Missouri and Nemaha River Basin issues. Although currently overshadowed by the Platte and Republican issues, these basins need to be taken into consideration. The NRDs along these basins have been involved with other state and federal agencies on protection, restoration and habitat development. Rural water supply systems are also operated and maintained as adequate underground water supplies are not always available. Flood control issues are also important to these basins. If a state water plan is developed the unique needs of these basins need to be considered.

Niobrara Basin

The uniqueness of the Niobrara River Basin needs to be taken into consideration in a state water plan. Irrigation demand is minimal in comparison to many other basins but yet the area has been declared fully appropriated. Because there are so few irrigated acres to retire for future uses of water, some other plan or options may need to be developed. The local NRDs in the basin have been very involved with reviewing the data and looking at the overall water supply for future uses. Just as the Niobrara River Basin is different than other basins in the state, there are also drastic differences in water uses from west to east.

Loup, Elkhorn and Lower Platte Basins

The NRDs in the Loup, Elkhorn and Lower Platte River Basins have been very involved with water management to avoid a fully appropriated status. They have been involved with development and review of scientific data to determine impacts of irrigation to stream flows. Had the local NRDs not been involved in data review, it is very likely that Nebraska might have made a determination based on incorrect data analysis. It is paramount that local NRDs are provided the opportunity hire staff to review scientific information so that local and state decisions on water management are well founded and reliable.

Blue River Basin

The Blue River Basin NRDs have been working hard on water management issues with local producers and communities. There is a water quality and quantity compact in the basin with the State of Kansas. The districts in the basin have been working with local producers, commodity groups, farm groups, and communities on water quality programs with tremendous success. Irrigation use has dropped significantly over the years primarily due to new technologies encouraged by the districts and adopted by the producers. Water quality programs, such as the Nebraska Buffer Strip Program, and the cooperative efforts of the local citizens have helped address many of the concerns. Cooperation between state agencies, local NRDs, and local citizens is necessary to continue the protection programs.

Flood Control and Recreation

Funding for flood control programs in the eastern end of the state needs to be included in any state water plan. As the urban population of eastern Nebraska continues to grow, planning and

coordination between local NRDs, communities, the private sector, and state agencies is critical. Financing and building multi-purpose flood control structures provides protection of life and property, but also adds to the overall quality of life.

Municipal and Domestic Water Supplies

I would encourage a state water plan to incorporate needs for municipal and domestic water supplies, both for quality and quantity. Many of the local NRDs provide rural water systems that can provide assistance to many small rural communities and rural residents. By hooking several small communities together on one system, economies of scale can be reached that lowers the overall cost of water to many residents. A state water plan should encourage economical and quality water systems to assist all Nebraskans.

Again, I appreciate the opportunity to provide comments on interim study Legislative Resolution 128. I urge that decision makers look beyond the short-term political answers and look for long-term solutions that provide for economic opportunities for the residents of the State of Nebraska.

Respectfully,

A handwritten signature in cursive script that reads "David Nelson".

Dave Nelson

Lage, Laurie

From: Jim & Marilyn Nelson [mjnelson@hamilton.net]
Sent: Wednesday, August 12, 2009 10:06 PM
To: Sen. Langemeier, Chris
Subject: water

Dear Senator Langemeier,

I received your letter asking for opinions about the future of water in Nebraska.

Having been an NRD director for the last 37 years in the Lower Loup NRD, I have witnessed the Twin Loups projects being constructed, Davis Creek reservoir, Calamus Dam, and benefits of irrigation within our NRD.

The Lower Loup NRD has provided camping facilities, boat ramps etc. at Davis Creek and we continue to be amazed at how many Nebraskans benefit from the water.

While finishing high school, I helped my father on the farm and the drought of the '50's had us very concerned about loosing the farm. At this point, we obtained a water right from the Middle Loup River and irrigated enough land to raise feed for our livestock. In 1966 the Farwell Irrigation District delivered water to our farm. At this point, our lives turned around. My son and his son are continuing the family farm that has been in the Nelson family for 109 years. No one knows the value of water any better than our family. My wife and I are retired and we live in a house by the river north of Cairo on land that our family has had for 75 years.

I find it depressing to think the water in the river, going past my house, will be out of the state in three days. By contrast, the water in the three reservoirs has been stored there nearly a year, and been used by people, birds and fish before being used by agriculture.

According to information in the Level B study, 50% of the water will return to the river by springs etc.

There are some unused canyons within the Twin Loups and Farwell Districts that could store large amounts of water and be filled from the canals of these two irrigation districts. These would be less expensive to build and not have a huge impact on the environment. These would not need to be irrigation facilities, just storage for recreation and a guaranteed source of clean water.

Many times I have said, without the Farwell Irrigation Project, there would not be a need for a stop sign in Howard County.

Sincerely,
Jim Nelson
332 Salem RD
Boelus, NE 68820
308-750-9540

8/14/2009

TO: Sen Chris Langemeir, Chairman
Natural Resources Committee
FROM: Richard Uhrenholdt
Water Policy Task Force

The primary focus of the Water Policy Task Force has been on the problems in the Republican and Platte River Systems. Little or no time has been spent on preventing these problems from spreading into the rest of the state. I would like you to consider the following points.

- We are pumping a tremendous amount of underground water in this state. A few years ago, I asked Roger Patterson how much water the wells in Nebraska were capable of pumping. The estimate that we came up with was five times the flow of the Missouri River at Omaha. I don't know if this answer is correct. However, if it is close that is a lot of water. What are the long-term implications of this pumping? There will be implications and I don't feel that we have a handle on how these changes will occur and what the symptoms will be.
- Upper Republican NRD directors have told me that they feel there is a 15-year delay from the time a problem develops and you become aware of it.
- The cost of cutting water use is very painful at both the state and local level
- There have been a lot of wells drilled in the past 4 years. Partly in response to LB 962 and partly due to higher commodity prices
- The Elkhorn and Loup River Basins are much different than the Platte and Republican Basins. They originate in the Nebraska Sandhills not Colorado or Wyoming. Much of the storage in the Platte and Republican basins is in highly visible reservoirs and it is very apparent when problems are developing. The storage in the Elkhorn and Loup Basins is underground and out of sight. Much of the flow is also underground. I feel that the water systems in these basins are much different than the Platte and Republican and are not very well understood.
- The spring and fall well logs from these areas are not a very good indication of the health of the water supply and might be giving a false sense of security. Measuring how fast the system recovers after severe pumping would be a better measure. I don't know if we have a very good baseline for this.
- Expansion of water use needs to be severely curtailed until we have a better understanding of the system. This would be much more flexible if it were to be implemented at the NRD level, however not all NRD's seem to be willing.
- Water policy in this state needs to have a very long-term vision. Twenty year in the life of an individual is a long time but in the lifetime of Nebraska it is nothing.
- Research on how water systems originating in the Sandhills work, needs to be expanded.

Richard Uhrenholdt
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baf@gpcom.ntc



nemaha

NATURAL RESOURCES DISTRICT

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MEMORANDUM RESPONSE

TO: SENATOR CHRIS LANGEMEIER, CHAIRMAN
NATURAL RESOURCES COMMITTEE

FROM: NEMAHA NATURAL RESOURCES DISTRICT BY REQUEST FROM
DUANE SUGDEN, WATER POLICY TASK FORCE MEMBER

DATE: AUGUST 27, 2009

SUBJECT: LR 128 – STATE WATER PLAN

Dear Senator Langemeier:

The Nemaha NRD agrees that the work completed by the Water Policy Task Force, formed from LB 962, has provided a significant step towards comprehensive water resource planning and management in Nebraska. One of the biggest highlights that transpired from LB 962 was the State Legislature's recognition of hydrologically connected ground and surface water. This recognition set forth the ground work needed to develop a comprehensive statewide water plan for Nebraska.

It is our opinion that one of the most crucial components of the plan should address surface water allocation management. For many years now the NRDs have developed and implemented groundwater management plans addressing both quantity and quality issues. These plans, coinciding with State statutes, authorized NRDs to limit groundwater users whereas surface water users have remained essentially unregulated.

Under Nebraska Revised Statute §46-231, surface water appropriators are allowed an allotment from the natural flow of streams for irrigation an amount that shall not exceed one cubic foot per second for each seventy acres of land. Also the allotment shall not exceed three acre-feet in the aggregate during one calendar year for each acre of land for which such appropriation has been made. Under §46-716, surface water controls that may be included in an integrated management plan (for areas determined to be fully or over appropriated) and adopted by the Department of Natural Resources (DNR) are (a) increased monitoring and enforcement of surface water diversion rates and amounts diverted annually and (b) other reasonable restrictions on surface water use which are consistent with the requirements of §46-231. Therefore any controls or restrictions the DNR may adopt must still abide by the §46-231 allotment of three acre-feet per year. Many groundwater users in the State are currently restricted to an allotment of three acre-feet or less over a three year period. If true conservation measures are to be implemented then both ground and surface water users should be allocated or restricted equally when integrated management plans are developed.



nemaha

NATURAL RESOURCES DISTRICT

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Additional ideas to consider for a comprehensive State water resource management plan are (1) determining what surface water appropriations are still in use and canceling those that are not, (2) updating the State surface water database into a format usable in geographic information systems (GIS), (3) requiring realtors and land brokers to assist sellers with transferring ownership of well registrations and surface water rights to the buyers and (4) requiring realtors and land brokers disclose known abandoned wells prior to land sales and ensure their proper closure.

Lastly, Nebraska Revised Statute §46-613 states that the preference in the use of groundwater shall be given to those using the water for domestic purposes followed by agricultural purposes and finally manufacturing or industrial purposes. However, the statutes in Chapter 46 Article 6 do not provide specific legal authority to NRDs when domestic uses are impacted by agricultural or industrial uses. Minimum spacing requirements between wells being constructed are addressed for irrigation, municipal and industrial type wells but not domestic wells. NRDs need the authority to be able to immediately shut down less preferred wells when domestic wells are clearly being impacted by them.

Please consider these comments and suggestions while conducting the interim study on Legislative Resolution 128.

Sincerely,

Chuck Wingert
Water Resources Manager

Cc: Duane Sugden, Water Policy Task Force Member and Nemaha Natural Resources District Board Director

Testimony on LR 128
Nebraska Legislative Natural Resources Committee
By John Miyoshi – General Manager, Lower Platte North NRD
October 7, 2009
Kearney, Nebraska

Senator Langemeier and members of the Natural Resources Committee my name is John Miyoshi and I am the General Manager of the Lower Platte North Natural Resources District and today my testimony is in support of a State Water Plan.

In recent years Nebraska has caught up with, or even passed other western states in dealing with water disputes. At our borders, within our borders; above ground, below ground; quantity, quality; people, crops; economics, fish! Our current method to handle water problems is to deal with them as they arise. Some of these problems have simple sensible solutions, but many turn into knock down drag out arguments and decisions are made in crisis mode which leave no winners.

Just as the State requires NRDs to have a "Master Plan" and a "Long Range Plan" so should Nebraska have a State Water Plan. This simple statement has led to much discussion since LR 128 was passed. As you delve into the topic there seems to be more questions than answers.

Question 1 - Who authors and owns the Plan?

- Governor
- Legislature Natural Resources Committee
- Department of Natural Resources
- Water Policy Task Force
- Appointed Committee
- Other or a combination of the above

Question 2 – What is the Goal of the Water Plan?

An overall vision statement is needed

Question 3 – How much detail is in the Plan?

Question 4 – Who will Pay for the Plan?

Question 5 – How often is the Plan Updated?

Some suggested chapters are:

- Basin Goals
- Economic Impacts of no Prepared Plan
 - Municipal Needs
 - Industrial Needs
 - Agricultural Needs
 - Wildlife Needs
- Identifying Conflicts and Potential Resolutions
- Instream Flows
- Maximizing Benefits of Available Water
- NRD Integrated Management Plans
- Projects
 - State Sponsored Water Projects
 - None-State Sponsored Projects with Potential Water Impacts
- Protecting our Borders
 - State Compacts and Decrees
- Potential Partners to assist with Plan Implementation
- Surface/Ground Water Conflicts
- Threatened and Endangered Species
- Tools Needed to Better Regulate Available Water

The best decisions are never made in crisis mode. Now more than ever a solid plan is needed to direct our limited water resources into the future. Perhaps Mark Twain said it best "Few things are harder to put up with than the annoyance of a good example." The time is right for the State to set a good example.



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nature.org/nebraska

November 2, 2009

Senator Chris Langemeier
State Capitol, Room 1210
Lincoln, NE 68509

Senator Langemeier,

I am writing regarding the recent hearings on LR128 and the request for input on creating a "valid and beneficial statewide water policy." Thank you for the opportunity to provide input, and thank you and the Natural Resources Committee for beginning this very important effort.

Nebraska has many great natural resources, but at the top has to be our freshwater resources. These waters provide not only great ecological benefit, but also great economic benefit. A state water plan is warranted and needed to ensure these benefits are sustained for generations to come. The Nature Conservancy recognizes the development of such a plan will not be a short or easy process. The Conservancy encourages the Committee and the Legislature to provide the Department of Natural Resources the needed staff and other capacities it will require not only to undertake a deliberate and comprehensive planning process, but also to implement, monitor and then adjust the plan as needed over time.

State water plans account for where, when, and how much water occurs in the state, as well as current and future demands. One of the most important, but often neglected aspects of state water plans is the quantity and timing of water flows needed to maintain healthy streams, rivers and lakes. The science of environmental flows has advanced markedly in recent years, and The Nature Conservancy is at the forefront of bringing this science into water policy. In particular, The Conservancy helps states use the Ecological Limits of Hydrologic Alteration, or ELOHA, to estimate and provide for flow needs statewide, in lieu of more time-consuming studies of each individual river reach. It consists of a scientific process that relates flow alteration to ecological response, and a social process that sets acceptable ecological condition goals for each water body. The flow alteration-ecological response relationships translate those social goals into environmental flow standards or targets for each water body.

The Conservancy urges the Natural Resources Committee to use ELOHA (or other systematic frameworks) to establish flow standards statewide, and have these standards be the foundation of a statewide policy for Nebraska. In doing so, Nebraska would be joining the leading edge of states that are adopting statewide ecological flow targets, including Michigan, Texas, Pennsylvania, Colorado and North Carolina.

I have included a copy of a brochure and paper further describing the ELOHA process. Please contact me if I could provide you and the committee with any further information.

Thank you,

Mace Hack, Ph.D.
State Director, Nebraska

September 4, 2009

Sen. Chris Langemeier
Dist. #23
State Capitol Building
Lincoln, NE 68509

Dear Sen. Langemeier:

Thank you for the opportunity to share with you and the other members of the Natural Resources Committee Farm Bureau's thoughts in regards to a comprehensive statewide water plan. First, let me commend you for the research you have already undertaken looking at the state's historical planning processes and what other states are doing. No doubt we can learn from past efforts and other states' efforts.

Nebraska Farm Bureau has generally been supportive of statewide water planning efforts as a means to better understand the state's water issues, identify management alternatives, and assure the wise investment of the public's dollars. A statewide water planning process could build an understanding of water management alternatives in each basin and allow for a well informed discussion on how best to address each basin's and the state's water challenges.

An overall goal of a comprehensive plan should be to optimize the use of Nebraska's water resources for the maximum benefit of its citizens. In order to achieve this goal, a plan must address several issues.

First, a basic understanding of the water supply and present consumptive uses within each river basin and statewide must be sought through the plan. The understanding must incorporate all elements of the hydrologic system—precipitation, ground water, surface water flows, etc., and factors outside the basin or state which might impact any of these elements. Such an understanding is fundamental to addresses the state's water challenges.

Second, the planning process should result in each basin identifying its water management goals, and the challenges that exist to meeting the goals. Incorporated into the basin goals must be a determination of long-term sustainable levels of use. Compliance with interstate compacts or state law (LB 962) should also be incorporated into the goals.

Third, data, research and modeling gaps should be identified that could assist each basin in meeting its management goals and addressing its challenges. These research needs should be compiled at the state level and priorities set to fill the information gaps.

Fourth, the planning process should result in an identification and analysis of management alternatives or activities that could be undertaken in each basin to meet its long-term goals. Road blocks (like funding, institutional structure, state law, etc) to implementation of the alternatives could also be identified. Policy makers could then discuss means or alternatives to remove the road blocks to achieve long-term water management goals.

In addition to the above issues, the planning process should also be:

- A bottom up, basin by basin approach with priority setting at the state level;
- Dynamic in the sense that it would be repeated on a periodic basis to report on progress made in relation to goals, update plans and monitor outcomes; and
- All inclusive—all stakeholders must have the opportunity to provide input (NRDs, DNR, irrigation districts, municipalities, irrigators).

I hope these comments are of some assistance. I would be glad to visit with you and other members of the committee anytime to further explore issues to be addressed in a statewide water plan.

Sincerely,

Jay E. Rempe,
Vice President/Governmental Relations

Upper Elkhorn



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Natural Resources District

October 16, 2009

TO: Chairman Chris Langemeier of Nebraska Natural Resources Committee

Thank you for holding the hearings on LR 128 and LR 181. I think there was a lot of good information presented and if you have any questions or clarifications regarding the NRDs actions or involvement I am sure the appropriate district will respond to your question(s).

The Upper Elkhorn NRD did not testify on LR128; however, after listening to the comments being made at the hearing we do have a couple of generalized comments regarding LR128 and they are:

- A lot of discussion regarding a State Water Plan talked about a “bottom ups” or “local representation” approach will be needed---NRDs were founded on this concept.
- Currently, LB962 is a good State Water Plan for the Upper Elkhorn NRD (UENRD). Since 2004, the Nebraska Department of Natural Resources (DNR) annually evaluates the basin on a balance of surface water and ground water uses. Upon a basin being labeled as fully or over-appropriated the DNR and NRD must jointly develop an Integrated Management Plan and that IMP must be approved by DNR. If there are differences that can not be worked through by DNR and the NRD they would be settled by the Integrated Water Review Board as defined by LB962(04). Several IMPs have been approved by DNR and this Review Board procedure has not had to be used.
- Based on a State Water Plan it is evident that one plan will not be very functional for the entire State. This State Water Plan would have to evaluate not only the climatic conditions, soil and water properties of different regions of the State, but look at the requirements set forth in State compacts and decrees.
- Statements’ surrounding “water short years” is a concern for the Upper Elkhorn NRD. Does the definition of “water short years” only mean areas that are associated with compacts, decrees and surface water irrigation districts? The Upper Elkhorn NRD does not have a surface water irrigation district nor are we involved in a state water compact or decree. Our concern lies within what the definition will include or exclude. If “water short years” is defined for anything else then compacts, decrees or surface water irrigation districts, we may be setting the State for future legal issues. Could “water short years” be determined, defined or administered for water held for Nebraska Game and Parks Commission’s instream flows; the district hopes this would not be considered as part of the definition.
- The Upper Elkhorn NRD is a partner with eight other NRDs, USGS, Conservation Survey Division and DNR in the development of the Elkhorn-Loup Model (ELM). This model is being utilized by DNR to evaluate the ground and surface water sustainability of the Lower Platte River Basin that includes the Loup and Elkhorn river basins.
- The Lower Platte River Basin Fully-Appropriated Designation was reversed by DNR(2009) and there is ground and surface water available and it would seem by testimony from the public and comments from some senators that we should strive to fully utilize that ground and surface water to it’s fullest potential within the State.
- Statements were made that approximately 1 million cfs enters the State and 8 million cfs exits the State and this surface water is not being fully utilized. Generalized comments were made that the State should look at various State projects to better utilize this water that is being exported out of the State.
- Testimony suggested a need for state water projects to store and release surface water in time of surplus and shortages. These types of structures may include recharge projects which are normally characterized as dams. We know with any type of project, this will not be favorable to the landowners that own the land at a proposed site. We know that

NRDs have been criticized when eminent domain had to be used or the fear of the NRDs using it. The State will come under the same scrutiny if State water projects are to be built. Hearings have been held on Senator Pankonin's LR124, which was to look at how eminent domain has been used on recreational trails. If a legislative bill is drafted to better define eminent domain it will need to include: how eminent domain could be used, which entities would be allowed to use it and for what specific purpose. Currently, these NRD projects protect and enhance the resources locally and for the betterment of the State.

- At these hearings, suggestions were recommended that we need a Statewide Clearinghouse for ground water quality and quantity data. Currently, there is a Nebraska Ground Water Nitrate and Pesticide Data Clearinghouse at the University of Nebraska-Lincoln that the NRDs and others submit their data to annually. Ground water quantity data collected by the NRDs is sent to the UN-L Conservation Survey Division and United States Geological Survey. I would encourage that these clearinghouses be evaluated to see if it already meets the needs that has been discussed at these hearings.

Again, I want to thank-you and the Natural Resources Committee members on taking the time to hold these hearings and listen to the general public's comments or concerns.

Sincerely;



Dennis Schueth
General Manager

Cc: Nebraska Natural Resources Committee Members
Senator Cap Dierks & Senator Kate Sullivan

NEBRASKA WATER PLAN RESOURCES

- Nebraska statute requiring the Department of Natural Resources to create a state water plan: §2-1599, §2-15,100, §2-15,101, §2-15,103, §2-15,105, and §2-15,106.
- UNL Water Center, <http://watercenter.unl.edu>, (402) 472-3305, Rachael Herpel, Water Education/Outreach Specialist, (402) 472-4977.
- U.S. Army Corps of Engineers, Sustainable Water Resources Future Study, <http://www.building-collaboration-for-water.org/>, final report pending.
- Viessman, Warren Jr. and Timothy D. Feather, State Water Resources Planning in the United States, sponsored and published by the American Society of Civil Engineers, Task Committee on State Water Resource Planning Assessment, Water Resource Planning Council, Environmental and Water Resources Institute, 2006.
- Nebraska Soil and Water Conservation Commission, Report on the Framework Study, Nebraska's State Water Plan, publication number 101, May, 1971.

2-1599. Statement of purpose.

In order to provide for the effective conservation and management of Nebraska's water resources, the Legislature hereby endorses the concept of a state water planning and review process. The purpose of this planning process shall be to coordinate and direct the planning efforts of the state agencies and university divisions with responsibilities and interest in the water resources field. This interagency planning process shall be designed to: (1) Provide the Legislature and the citizens of Nebraska with information and alternative methods of addressing important water policy issues and areawide or statewide water resources problems; (2) provide coordinated interagency reviews of proposed local, state, and federal water resources programs and projects; (3) develop and maintain the data, information, and analysis capabilities necessary to provide state agencies and other water interests with a support base for water planning and management activities; (4) provide the state with the capacity to plan and design water resources projects; and (5) conduct any other planning activities necessary to protect and promote the interests of the state and its citizens in the water resources of Nebraska.

Source:Laws 1981, LB 326, § 1; R.S.Supp.,1982, § [2-3282](#).

2-15,100. Water planning and review; how conducted; assistance.

The state water planning and review process shall be conducted under the guidance and general supervision of the director. The director shall be assisted in the state water planning and review process by the Game and Parks Commission, the Department of Agriculture, the Governor's Policy Research Office, the Department of Health and Human Services, the Department of Environmental Quality, the Water Center of the University of Nebraska, and the Conservation and Survey Division of the University of Nebraska. In addition, the director may

obtain assistance from any private individual, organization, political subdivision, or agency of the state or federal government.

Source:Laws 1981, LB 326, § 2; R.S.Supp.,1982, § [2-3283](#); Laws 1984, LB 1106, § 38; Laws 1993, LB 3, § 2; Laws 1996, LB 1044, § 37; Laws 2000, LB 900, § 43; Laws 2007, LB296, § 16.
2-15,101. Appropriations; procedure.

Appropriations may be made to the department for all or part of the costs incurred by agencies other than the department in conducting the state water planning and review process. The state budget administrator shall create a separate budget program within each agency that is to receive a portion of such appropriations. To properly account for such funds, recipients shall submit to the department, in the form prescribed by the department, documentation of all costs incurred in rendering services determined by the department to be eligible for reimbursement.

Source:Laws 1981, LB 326, § 3; R.S.Supp.,1982, § [2-3284](#); Laws 2000, LB 900, § 44.

2-15,103. Commission; duties.

The commission shall provide the director and the Legislature upon request with the opinion of the general public and various water interests in the state. It is the intent of the Legislature that the commission consider the different opinions of the individual members but, as a body, it shall provide the director with input and comments on state water planning and review process activities as they relate to the overall use of Nebraska's water resources. The functions of the commission shall include providing upon request advice and assistance in the planning process by: (1) Identifying legislative and administrative policy issues; (2) developing and reviewing alternative solutions for legislative and administrative policy problems, including impact assessment; (3) recommending the types of problems needing analysis and where such problems are located or likely to be located; (4) disseminating information and materials generated by the planning process to the public; (5) determining the conditions under which and the methods by which additional public input is to be obtained; and (6) reviewing and commenting on reports produced through the planning process.

Source:Laws 1981, LB 326, § 5; R.S.Supp.,1982, § [2-3286](#); Laws 1984, LB 1106, § 39; Laws 2000, LB 900, § 45.

2-15,105. Public hearings; materials; made available to public.

It is the intent of the Legislature that the public have maximum input into the formulation of state water policy. The director shall conduct one or more public hearings prior to the completion of any recommendations to the Legislature on methods of addressing water policy issues. All materials produced as part of the state water planning and review process shall be available to interested persons and groups upon request. The department or other agency providing such material may make a charge therefor which does not exceed the actual cost of providing the same.

Source:Laws 1981, LB 326, § 7; R.S.Supp.,1982, § [2-3288](#); Laws 1984, LB 1106, § 41; Laws 2000, LB 900, § 46.

2-15,106. Annual report; contents.

On or before September 15 for each odd-numbered year and on or before the date provided in section [81-132](#) for each even-numbered year, the director shall submit an annual report and plan of work for the state water planning and review process to the Legislature and Governor. The report shall include a listing of expenditures for the past fiscal year, a summary and analysis of work completed in the past fiscal year, funding requirements for the next fiscal year, and a projection and analysis of work to be completed and estimated funding requirements for such work for the next succeeding four years. The explanation of future funding requirements shall include an explanation of the proposed use of such funds and the anticipated results of the expenditure of such funds. The report shall, to the extent possible, identify such information as it affects each agency or other recipient of program funds. The explanation of future funding requirements shall be in a form suitable for providing an explanation of that portion of the budget request pertaining to the state water planning and review process.

Source:Laws 1981, LB 326, § 8; R.S.Supp.,1982, § [2-3289](#); Laws 1984, LB 1106, § 42; Laws 2000, LB 900, § 47; Laws 2002, Second Spec. Sess., LB 12, § 1.

LINKS TO OTHER STATES' WATER PLANS

Below are the links to the full state water plans of the 21 states for which I have found information. The last link is to the State Water Resources Planning document prepared by the American Society of Civil Engineers. The link allows you to look at some, but not all, pages of the document.

Kate Gaul
Legislative Research

<http://www.anrc.arkansas.gov/StateWaterPlan.html>

<http://www.waterplan.water.ca.gov/cwpu2009/index.cfm>

<http://www.dep.state.fl.us/water/waterpolicy/fwp.htm>

<http://www.georgiawatercouncil.org/>

http://www.georgiawatercouncil.org/Files_PDF/water_plan_20080109.pdf

http://hawaii.gov/dlnr/cwrp/planning_hiwaterplan.htm

<http://www.iaenvironment.org/documents/11-27-07FinalStateWaterPlan.pdf>

http://www.idwr.idaho.gov/waterboard/Planning/State_Planning/State_Planning.htm

<http://www.kwo.org/Kansas%20Water%20Plan/Kansas%20Water%20Plan.htm>

<http://www.eqb.state.mn.us/project.html?Id=19166>

<http://www.dnr.mo.gov/env/wrc/statewaterplanMain.htm>

http://leg.mt.gov/content/Committees/Interim/2007_2008/water_policy/staffmemos/statewaterplan.pdf

<http://www.depweb.state.pa.us/watershedmgmt/cwp/view.asp?a=1426&q=486209>

<http://water.nv.gov/WaterPlanning/wat-plan/con-main.cfm>

<http://www.twdb.state.tx.us/wrpi/swp/swp.htm>

http://www.ose.state.nm.us/publications_state_water_plan_public_meetings_2009.html

<http://swc.state.nd.us/4dlink9/4dcgi/GetSubCategoryRecord/News%20and%20Information/State%20Water%20Management%20Plan>

<http://environ.okstate.edu/owrri/waterplan/>

<http://denr.sd.gov/dfta/wwf/statewaterplan/statewaterplan.aspx>

<http://www.water.utah.gov/waterplan/>

<http://www.deq.state.va.us/watersupplyplanning/statwat.html>

<http://waterplan.state.wy.us/>

http://books.google.com/books?id=HS20jskKlwoC&dq=state+water+resources+planning+in+the+united+sates&printsec=frontcover&source=bl&ots=6sdwvpAxEv&sig=I3LleQX6-cLEC_DAVbqAzT_RzE&hl=en&ei=SIElSo2oAd2ptgfoicjZBg&sa=X&oi=book_result&ct=result&resnum=3#PPP1,M1