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Transcriber's Office

Natural Resources Committee
February 28, 2007

[LB458 LB701 CONFIRMATION]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, February 28, 2007, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB458 and LB701 and gubernatorial appointments. Senators present: LeRoy Louden, Chairperson; Carol Hudkins, Vice Chairperson; Tom Carlson; Mark Christensen, Annette Dubas; Deb Fischer; Gail Kopplin; and Norm Wallman. Senators absent: None.

SENATOR LOUDEN: ...(recorder malfunction)... To my far right is Senator Norm Wallman, from Cortland; next to him is Senator Annette Dubas, from Fullerton; next to her is Senator Tom Carlson, from Holdrege; and sitting right to my near right is Jody Gittins, committee counsel. Senators to my left here, Senator Carol Hudkins, vice chairperson, from Malcolm; Senator Deb Fischer, from Valentine; and Senator Mark Christensen, from Imperial; and Barb Koehlmoos, committee clerk. The pages today are Erin Frank from Bassett and Steve Scharf from Lincoln. They're both University of Nebraska students. I would ask that you turn off your cell phones or your pagers or put them on silent so that we don't have any interruptions during the hearing process today. We have two confirmations and two bills to hear this afternoon and a large number of testifiers. As you begin your testimony, state your name and spell it for the record, even if it is an easy name. Please keep your testimony concise and try not to repeat what someone else has covered. Because of the number of people to testify, I will limit your testimony to three minutes and then give the committee members a chance to ask questions. If you are sitting in Room 1023 and wish to testify on one of the bills, please come to the hearing room when we are taking testimony, in the appropriate position, and let the sergeant at arms know you want to testify. This year we are using a computerized transcription program and it is very important that you complete a green sign-in sheet prior to testifying. They are on the tables by the doors in the hearing room and also on a table in Room 1023. The form needs to be completed by all people wishing to testify, including senators and people being confirmed. If you are testifying on more than one bill, you need to submit a form for each bill. When you come up to testify, please place the form in the box by the committee clerk. Do not turn the form in before you actually testify. Please print and it is important to complete the form in its entirety. If our transcribers have questions about your testimony, they use this information to contact you for clarification. If you do not wish to testify but would like your name entered into the official record as being present at the hearing, there is a form you may sign. These are located on the tables by the doors and also on a table in Room 1023. This form will become an exhibit from our hearing today and will be part of the official record of the hearing. If you do not choose to testify, you may submit comments in writing and have them read into the official record. Your comments will be an exhibit from our hearing and will become part of the official record. If you want to be listed on the committee statement as a testifier at the hearing, you must complete a sign-in sheet and actually testify, even if you just state your name and position on the bill. The chair

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next to the witness table is the on-deck chair. As one person finishes testifying the person in the on-deck chair should move immediately to the witness table and begin their testimony. As the on-deck chair is vacated, another testifier should move to that chair so we can keep the proceedings moving. If you have handout material, give it to the pages and they will circulate it to the committee. No displays of support or opposition to a bill, vocal or otherwise, will be tolerated. If you need a drink of water while you're testifying, the page will get you one. With that we will start with the first gubernatorial appointment for the confirmation hearing and the appointee is Mark Graham for the Power Review Board. Welcome, Mr. Graham. [CONFIRMATION]

MARK GRAHAM: (Exhibit 1) Thank you, Senator. I don't know what the procedure is here, I... [CONFIRMATION]

SENATOR LOUDEN: Just tell us a little bit about yourself and what you've done, what you think about the Power Review Board, and a little bit of an overview of your work that you've done concerning electricity or Power Review Board. [CONFIRMATION]

MARK GRAHAM: Okay. Sure. Thank you very much. It's a pleasure to be here. I didn't realize--I was misinformed, I didn't realize this position was this popular, but that's all right. (Laughter) As stated earlier, I'm Mark Graham and I got introduced to this state in 1985 right out of grad school. I was able to come up here and work for a company here in Lincoln called Metromail. It's since gone through other changes and is now part of Experian. I've spent 22 years since then in that same industry, in the database marketing industry. During that tenure in my career I have spent some time with the utilities industries, both on the electrical and also on the gas side, on the development of that. I came here in '85, met my wife who became my wife in '86. She lived out in Henderson. I grew up in far east, southeast Nebraska known as Biloxi, Mississippi (laughter). I have three beautiful children. My in-laws still are out there in Henderson and I've been a resident here for off and on for--this is almost my tenth year. With that, I learned of the appointment. My background is one of such as it's business and I lend that to the committee and for the appointment. [CONFIRMATION]

SENATOR LOUDEN: Okay, questions for Mr. Graham? Senator Carlson.
[CONFIRMATION]

SENATOR CARLSON: Senator Louden. Mark, I look with interest here at Delta State University and Biloxi and sometime when we've got time, I'd share some pleasant memories and experiences from those two places, not as a student, but as a visitor.
[CONFIRMATION]

MARK GRAHAM: Well, thank you. [CONFIRMATION]

SENATOR CARLSON: My question to you would be what's your thoughts on renewable

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energy? [CONFIRMATION]

MARK GRAHAM: Well, I certainly think we ought to be investigating them. I think we ought to be looking at what is going on. I also do that with a little bit of temperament because I know that even today as we look at what's going on, even on the gas side with ethanol, has it all been proven? What are the amounts per gallon on that? What are we doing with wind generation on that side? What are we doing as far as nuclear...I've done quite a bit of study early on with public opinion and what they ought to be doing on research with respect to nuclear energy. And it's funny that still I come back and find a lot of the people, a lot of the research shows, it's still, coal still tends to be some of the most efficient unless you go back to the nuclear part of it. But I think we still ought to be reviewing it, looking at it. I think we have a great opportunity here in the state to do some of the renewable energy. [CONFIRMATION]

SENATOR CARLSON: Thank you. [CONFIRMATION]

SENATOR LOUDEN: Other questions for Mark? Seeing none, Mark, I guess you're in fine shape if all those people don't oppose you. (Laughter) [CONFIRMATION]

MARK GRAHAM: Well, you said they couldn't campaign for me or make anything, so that's all right. I appreciate it. Thank you so much. Appreciate it. [CONFIRMATION]

SENATOR LOUDEN: Well, thank you so much for coming before us today. Anyone else wishing to testify in favor of Mr. Graham? Is there opposition to the confirmation of Mark Graham? Anyone wishing to testify in the neutral? Seeing none, I guess we'll close the confirmation hearing on Mark Graham. Next we'll do the confirmation hearing on Ronald Stave, from the Game and Parks Commission. Good afternoon. [CONFIRMATION]

RONALD STAVE: (Exhibit 2) Mr. Chairman, members of the committee, my name is Ron Stave, S-t-a-v-e. Following his lead, I would just tell you my background. I'm born and raised in Nebraska. I've lived in Omaha all of my life, Douglas County. I went to school at Westside High School, went to the University of Nebraska at Omaha, and then to Creighton Law School and I am currently a partner with Kermit Brashear in his law office in Omaha and intend probably, to finish my career there. And I am looking forward to being on the Nebraska Game and Parks Commission as a commissioner. [CONFIRMATION]

SENATOR LOUDEN: Okay. I have...Mark, for the record, Senator Kopplin from Gretna has joined the committee as a committee member. Questions for Mr. Stave? Senator Fischer. [CONFIRMATION]

SENATOR FISCHER: Hello, Mr. Stave, and thank you for coming today. Can you tell me why you want to be on the Game and Parks Commission; do you have interests in

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wildlife, outdoor activities, anything like that? [CONFIRMATION]

RONALD STAVE: Sure. I'm an avid outdoorsman, in fact, I subscribed to Outdoor Nebraska in the mid-fifties. That dates me a little bit, but I hunt and fish in Nebraska and throughout the United States and have great interest in outdoor activities, parks, water, all of those things. And looking forward to, I guess, dealing with some of our highest assets and those would be wildlife, land, water. I'd like to give back to the state. [CONFIRMATION]

SENATOR FISCHER: Okay, thank you very much. [CONFIRMATION]

SENATOR LOUDEN: Other questions? I have one, Ronald. Since the part of the country where I represent we have a lot of forestry and the Game and Parks has a lot, of course, what is your position on, I guess, reducing the fuel loads in some of those wildlife management areas and should those areas be maintained, or should they more or less be left to go like Mother Nature wants them to go? [CONFIRMATION]

RONALD STAVE: You know, I would like to address that issue but I haven't studied that very much and haven't had an opportunity to really dig into a lot of this so, I would, I'd be saying something that probably wouldn't have much basis. So I would love to have a chance to look at it and report back to you again on that. [CONFIRMATION]

SENATOR LOUDEN: Okay. Thank you. Other questions for Mr. Stave? Senator Hudkins. [CONFIRMATION]

SENATOR HUDKINS: Mr. Stave, thank you for coming. This is a new appointment then? [CONFIRMATION]

RONALD STAVE: Yes. [CONFIRMATION]

SENATOR HUDKINS: Yes. Have you attended any of the meetings yet? [CONFIRMATION]

RONALD STAVE: I have not. [CONFIRMATION]

SENATOR HUDKINS: Have not. Thank you. [CONFIRMATION]

SENATOR LOUDEN: Other questions? I guess thank you for coming before us today. Anyone wishing to testify as proponents for Mr. Stave? Seeing none, anyone wishing to testify as opponents for the confirmation of Mr. Stave? And anyone wanting to testify in the neutral capacity? Seeing none, then we will close the hearing on the confirmation of Ronald Stave. Thank you for coming today. With that we will begin the hearings on LB458 that which would require vegetation management in certain streams, and

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Senator Carlson will give his presentation. [CONFIRMATION]

SENATOR CARLSON: (Exhibit 3) Good afternoon, Senator Louden, and members of the Natural Resources Committee. I am Tom Carlson, spelled C-a-r-l-s-o-n, representing the 38th district, here to present LB458 which is my priority legislation for this session. I will be speaking to AM526 to LB458. Our competent committee clerk has placed copies in your books. The main point of the green copy and the amendment is to amend the Nebraska Ground Water Management and Protection Act to include provisions to remove vegetation that has a negative impact on rivers, basins, subbasins, or reaches that have been declared fully appropriated or overappropriated. The purpose of this legislation is at least fourfold, not necessarily in this order. First, to help repair seventy or more years of damage to a valuable treasure of our state, the rivers. Second, to help allow our rivers to better handle future floods, not if, but when they occur. Third, to help restore rivers and streambeds to be more favorable to fish and wildlife and to be more favorable to recreation interests. And fourth, to help save significant amounts of water now used by vegetation in the streambeds and by invasive vegetation in riparian areas. Our rivers are a state treasure. I grew up two miles south of the Platte River near Highway 183 between Holdrege and Elm Creek. I remember as a boy crossing the Platte River on the way into Elm Creek and looking east and west and seeing nothing but sand and water. I would love to see the Platte River return to that position. I grew up about 40 miles north of the Republican River and I would love to see the Republican River return to what it used to be. I take ownership in the Platte River, I'm a Nebraskan. I take ownership in the Republican River, I'm a Nebraskan. Two years ago we visited the Niobrara River. And in going to the reception by the folks from Niobrara recently, I told them that they should do everything in their power to keep the Niobrara a beautiful river so it doesn't turn into something like the Platte and the Republican. I take ownership in the Niobrara River, I'm a Nebraskan. LB458 creates a task force with a sunset provision of June 30, 2009. The task force will determine priorities for action and I believe the Republican River will be the top priority because of the compact with Kansas. To go beyond June 30, 2009, the Legislature would have to authorize that continuance. A number of people are here today to testify and show support or opposition to the bill. I appreciate their attendance and I welcome them. I have much to say about the need for, and the appropriateness of, LB458 and the associated amendment. I will ask for the testimony to proceed and I will ask to close on this bill. I'll be happy to address any questions the committee may have. [LB458]

SENATOR LOUDEN: Questions for Senator Carlson? Senator Hudkins. [LB458]

SENATOR HUDKINS: Thank you. Senator Carlson, the amendment totally replaces the bill, correct? [LB458]

SENATOR CARLSON: Yes. Yes, it does. [LB458]

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SENATOR HUDKINS: Okay. And since we have just been given the amendment, or at least I haven't read it before now, can you tell me how the two are different? [LB458]

SENATOR CARLSON: The setting up of the task force is the main difference. [LB458]

SENATOR HUDKINS: Okay. And then looking at the fiscal note, will that be changed any by the amended version? [LB458]

SENATOR CARLSON: It may well, and I would, I guess, like to defer a little bit to some other testimony and then maybe come back to that in my closing, okay? [LB458]

SENATOR HUDKINS: Fine. Thank you. [LB458]

SENATOR CARLSON: Okay. [LB458]

SENATOR LOUDEN: Other questions for Senator Carlson? Seeing none, thank you, Senator Carlson. [LB458]

SENATOR CARLSON: Thank you. [LB458]

SENATOR LOUDEN: (Exhibit 4) At this time I would like to read that there is a letter of support for LB458 from Ted Tiejten of Southwest Nebraska RC&D. Thank you. Go ahead. [LB458]

TOM SCHWARZ: Chairman, members of the committee, my name is Tom Schwarz, that's T-o-m S-c-h-w-a-r-z, a farmer from Bertrand. I'm here representing myself in support of LB458. Starting off, Mr. Chairman, time wise, what's my limit at this point? As I understood, ten minutes on the initial, is that correct? [LB458]

SENATOR LOUDEN: Okay, you're Senator Carlson's expert witness? You got ten minutes. You're on the clock already. [LB458]

TOM SCHWARZ: Okay. Thank you. (Laughter) In all my years working on Platte and Republican issues, I have never seen one issue that united all the river managers in the state like invasive plant species have. I have called a number of people to get information and I've really felt a sense of near panic over this issue. Environmentalists, irrigators, recreationists, flood control people, are all desperately concerned about what they've seen take place on the Republican and the upper reaches of the Platte. And obviously we're very concerned about how this may spread across other rivers of the state. Regarding the Republican, I've put together some information about the costs of clearing woody riparian vegetation on the Republican Basin. I've also developed some rough numbers on a evapotranspiration savings as well as a woody acreage estimates. I've visited with a number of habitat managers on the Platte and received fairly

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consistent information regarding the costs for clearing vegetation. Now that could be grouped into three areas primarily. You've got to clear large growth, heavily forested; you've got to clear thick brush which includes willows and things of that nature; and then you've got salt cedar, phragmites, and the invasives which, of course, are coming in pretty hard. Large growth is obviously the most expensive to clear. We've got seventy-some years of growth on that river and in those islands in the middle of the river, you've got some pretty dense forest. You are looking at a cost of \$800 to \$900 an acre possibly to clear those heavily forested areas. However, we're doing a fairly narrow channel so I think we're going to see the costs be within a manageable range. Brush clearing, you are looking at \$300 to \$400 an acre to clear brush, like willows and things of that nature. Salt cedar and phragmites, when chemically controlled, run about \$200 per acre, although Congressman Osborne, in some discussions with some people, has gotten estimates that are far lower than that on the Platte. The problem we've got on the Republican is the nature of the river is a little bit different than the Platte and we may be able to get a better buy on controls on the Platte than we can on the Republican. But still, we should be able to get it done within the \$100 to \$200 range on salt cedar and phragmites control on the Republican. There have been experiments done on the Platte harvesting trees for lumber. At this time none of the Platte River managers are using that. The problem they've run into is the cost of operating the lumber mill and associated harvesting operation were great enough that they felt it was cheaper just to doze the trees down and burn them. However, I think in the Republican, there could be a possibility for an operation of that kind to be put together where we would utilize that large growth timber for lumber. Or additionally, there's been a lot of discussion, of course, on the national stage, about cellulosic ethanol and that source for cellulosic ethanol could also be wood chips. I've been told by a lot of people that the problems of salt cedar and phragmites have been overstated in the Republican while the problem of Russian olive and red cedar have actually been understated. And my personal observations, I guess, would tend to put me in agreement with that. We've got a tremendous problem with Russian olive in the western reaches of the Republican and I think that's something we're going to have to really focus on at some point. Clearly, all of these invasive species have a foothold and are going to create new demands on an already short resource. Once the ground is cleared, of course it's got to be maintained free of regrowth. Virtually all the operations on the Platte use some form of disking to maintain clear areas. Some chemical controls are also needed. Things like musk thistle and that, tend to flare up after you do these clearings and so you do have to use some chemical control occasionally to take care of that. Maintenance estimates kind of range from a low of \$30 an acre to a high of \$90. I think it's likely that \$30 to \$60 is probably the range that we would find we were able to maintain those clear channels. There could be some additional costs if federal money is used. There's always the possibility we may need to do an environmental assessment. Costs for an EA can run from \$100,000 to \$150,000. If we have to do an environmental impact statement, the rule book is out the window then. You could be looking a million dollar investment in an EIS. But hopefully that's something we wouldn't have to ever cross. Any time, of course, you

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work along the river and disturb the soil, you've got to have a 404 permit from the Corps of Engineers, however, the Corps appears to be very supportive of this effort and I don't think that's going to be much of an issue to get that. Most of the land along the Republican is privately owned and so getting access to the land from the landowners could be an issue. One idea that's been thrown out is that if a logging project were undertaken, landowners could buy into that logging project by donating or allowing the use of their land for the clearing. And then any profits from logging would go then to those landowners who were partners on that. If, I guess I should say unless there's an incentive, the cost of access to the river could be an additional input. The Republican Basin area, covered with woody vegetation, was estimated at 50,000 acres by Rand in 1973. This number is not likely to have changed much in the past years as equilibrium seems to have been achieved. We would obviously not attempt to clear this many acres. It is reasonable to assume that we would want to focus our efforts on the easternmost part of the basin. Net yield would be the highest and transportation losses would be the lowest if our efforts were concentrated there. Environmental issues would also likely force us to leave certain areas undisturbed so species that require woodlands could continue to survive. In short, 15,000 acres of clearing would probably cover the lower 33 percent of the river. If we assume a \$650-per-acre cost, that part of the river could be cleared for about \$10 million. As we narrow that channel, the amount that we clear, obviously that number comes down. New, not yet published research was given to me on evapotranspiration of cottonwoods. This shows the net return from clearing ground with cottonwoods is about 18 inches per acre because you do have additional evaporation from removing the cottonwoods, I mean you lose the evapotranspiration of the cottonwoods but you still have a net increase in evaporation from the ground because you don't have the shade on the ground. So there's, it's kind of a give-and-take, but the net is about 18 inches. If we use this, hopefully, conservative figure, we would save about 17,500 acre-feet of water per year. This new data shows far less savings than previous research, however, talking to a number of people, I think it is the most accurate information available. Using these numbers, the cost per acre-foot would be for the initial clearing, \$571. The annual cost per acre-foot for maintenance would be \$51. The estimates should be considered to be on the high side. In other words, I'm very confident that the numbers I'm giving you will achieve the goals that we've set out. We should be able to do this for this price or less, and we should get a minimum of the number of acre-feet or more in return for that investment. Vegetation control should not be viewed though as the whole answer to our water supply problems on the Republican... [LB458]

SENATOR LOUDEN: You've got one minute. [LB458]

TOM SCHWARZ: Okay. Rather it could be one piece of the pie. Water savings from vegetation removal could count for as much as 25 percent of our current shortfall, however, the rest will have to come from other sources. Since I'm short of time, I'll try to...we'll jump into the Platte real quickly. The Platte, I divided into the segment

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upstream of McConaughy and downstream. The dam at Lake McConaughy forms somewhat of a natural barrier to vegetation movement on the river. So if I were in control of this, I would suggest that we start our work at the state line and work to McConaughy and do that hopefully, in coordination with work that's being discussed in Wyoming to do the same thing. Just this week I talked with Mike Beeson, with Wyoming Resource Development and they're looking and undertaking a similar effort in their state. But anyway, from the state line downstream...UN-L has done a lot of research in this area and feel confident that we would save upstream of McConaughy, 64,240 acre-feet of water by removing Russian olives, salt cedar, and phragmites. Russian olive is estimated to be 3,600 acres, salt cedar, 13,855 acres, most of that being around Lake McConaughy. And phragmites has actually limited in that reach to about 312 acres. The phragmites problem is downstream of McConaughy primarily, not upstream. [LB458]

SENATOR LOUDEN: Okay. Questions for Tom? Seeing none, I guess you explained it quite well, Tom. Thank you for testifying. Now can I see a show of hands of how many people wish to testify in favor of this bill? Eleven or twelve? Okay, we'll probably try and go about three minutes unless you have some important testimony. [LB458]

RUSSELL SHULTZ: (Exhibits 5 and 6) I'm Russell Shultz, S-h-u-l-t-z and I have some copies of my testimony. I represent the Nebraska Weed Control Association and 93 counties are involved in that association. We've been involved with noxious weed control for quite some time and since the revisions to the Noxious Weed Control Act in 1989, made considerable progress by removing over 33 million acres of infested lands. But more recently, since purple loosestrife and salt cedar was added to the noxious weed list, we have started to have to work into the riparian areas and we found out pretty fast we have a major problem, including those two weeds as well as phragmites and Russian olive. So we started to develop weed management areas because we needed to be working with everybody that had an interest, NRDs and others, and now we have 12 weed management areas across the state representing 84 percent of the counties. We felt this was such a problem that we felt we needed to get everyone with an interest in this together and this past August in Kearney we had a Threat to Nebraska Rivers-Invasive Plants Conference with over 200 people in attendance. There was very strong support to do something. Some of our major conclusions were that all native riparian plant communities had been compromised. Over 25 percent of the streambeds and the adjacent areas of most of the rivers in the state have been invaded by invasive plants like phragmites, purple loosestrife, salt cedar, and Russian olive. These invading plants, you've already heard some figures here, so my figures sound a little bit less. But anyway, the invading plants are using more water than the native plants they replace and the amount is sizeable. And actually, phragmites is really scary. I think we are going to see phragmites cover both sides of the bank of most of the rivers if we don't do anything. They are already covering a hundred-mile stretch below McConaughy and are showing up on the Republican and many of the other streams,

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even the Niobrara. We feel the streambed vegetation will greatly increase hazards of flooding, but we feel that we can reverse these impacts if we start and we can work with landowners and get the job done. We had four major items, issues that we felt the conference brought up: a state plan of action; incentives for management of plants invading riparian areas; include riparian invasive plant management as a part of the Nebraska water policy; and immediate local action by weed management areas, NRDs, and landowners. We feel that the creation of a Riparian Vegetative Task Force would provide for a state plan of action giving recommendation to the Governor and to the Legislature, and provide implementation guidance. The funding of the Nebraska Department of Agriculture matching grant program would provide incentives directed at areas with water concerns and would facilitate immediate and accelerated local action by weed management areas, NRDs, and landowners. [LB458]

SENATOR LOUDEN: Okay, thank you. Questions for Russell? I would have one, Russell. You represent the Weed Control Association, is that correct? [LB458]

RUSSELL SHULTZ: That's right. [LB458]

SENATOR LOUDEN: Yeah, and can your county weed people, whoever they are, spray a portion of this, are you spraying now in your wetland area for some of these noxious weeds? [LB458]

RUSSELL SHULTZ: Yes, we are. Like the Lower Platte Weed Management Area, which involves the weed control authorities plus others, Game and Parks Commission and others, NRDs. We have, in the last three years, got a grant for about \$100,000 and we've sprayed 4,300 acres and we're using chemicals that you can apply directly to the water. We're using Nebraska Airboaters Association to help us, and I think the key to getting this job done is the people at the local level and that's the weed management areas which make up of NRDs, Game and Parks, weed control authorities. I think if this job is going to get done, it's going to have to be these people at the local level. [LB458]

SENATOR LOUDEN: I agree because leafy spurge used to be something huge. It was floating down the creeks and rivers all the time, that sort of thing and that...the weed people are the ones that usually got the best control on that because they had the equipment. Then what part of the country do you live in? [LB458]

RUSSELL SHULTZ: I live in Lancaster County, but I'm a retired soil conservation service employee and worked throughout the state for a lot of years, so I am very familiar with the state. [LB458]

SENATOR LOUDEN: Okay. Thank you. Other questions for Russell? Thank you, Russell, for testifying. [LB458]

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RUSSELL SHULTZ: Thank you. [LB458]

SENATOR LOUDEN: Next testifier? [LB458]

LEVI WHIPPS: I'm Levi Whipps, W-h-i-p-p-s. I'm here to testify in support of LB458 and I represent the Nebraska Cattlemen along with myself. Good afternoon, Chairman Louden, members of the committee, I'm Levi Whipps. My sons are six-generation ranchers on the Republican River Basin and I hope they get a chance to ranch there. I'm currently serving as the regional director to the Nebraska Cattlemen, and on behalf of the thousands of ranchers and farmers and feeders across the state, I would like to speak to you in support of LB458 and AM526. I would like to thank Senator Carlson for bringing this bill forward to the Natural Resources Committee for its consideration. And I'd like to talk to you about why we think it's needed. Nebraska Cattlemen believes this type of management will contribute to the increased stream flow in the Republican River, particularly. These methods have been incorporated in other states and we've seen very positive results and I think there are other testifiers after me that will testify to that fact. There's concern about the cost of this program but we believe the dollars invested in this program will return many times over to the state of Nebraska by Nebraska contractors and Nebraska businesses etcetera, etcetera, let alone the benefits to the rivers themselves with the compliance in the Republican River compact. Recently the President described the future for this country includes a significant amount of cellulosic ethanol. That may be an extraordinary opportunity for the state of Nebraska to participate in this technology. And in addition to that, management of the streambed will also reduce the destructive impact of flooding which we all know will happen again, not necessarily if it happens again. My family, in particular, is invested with help from private and public funds in the clearing of tress along the Republican River. In my experience, the funding proposed in this bill will only be able to affect about 6,000 acres per year and obviously I am not an expert on the numbers, but this is just my rough calculations. I have been told there are over 70,000 acres of affected area in the basin. The \$2 million is an excellent start on clearing the trees but it won't be enough to be a major contributing factor in complying with the compact. With that, Chairman Louden, members of the committee, I urge you to advance LB458 to General File, and I'll be glad to answer any questions if I can. [LB458]

SENATOR LOUDEN: Any questions for Levi? Senator Carlson. [LB458]

SENATOR CARLSON: Senator Louden. Thank you, Levi. Tell us a little bit more about your experience with...what did you find out in the clearing that you did? [LB458]

LEVI WHIPPS: Our ranch is located right on the Republican River. We went in on and cleared the Russian olives and the cedars and some of the cottonwoods and other stuff. Not only did we see a return of the native grasses almost immediately, that were there when my family came to the basin in the forties, but we didn't see a harmful impact on

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the habitat. We'd been affected in the past by floods, our fences, our roads, our bridges, get wiped out by trees and other debris coming down the river and we feel that the clearing of that and making use of it somewhere else, has benefitted our ranch in particular, and in addition to that, the state of Nebraska. This year, luckily, we've been blessed with more stream flow whether that's due to the trees or Mother Nature. I'm not an expert enough to say but I can say that it did not hurt what we were trying to do. [LB458]

SENATOR LOUDEN: Senator Christensen. [LB458]

SENATOR CHRISTENSEN: Chairman Louden, thank you. Levi, what has been the impact upon the habitat and also for the grazing value of the land? [LB458]

LEVI WHIPPS: Well, we have taken land that over the past 40 years, and others have said 70 years, and I guess my experience would be closer to, you know, I don't have 40 years of experience, but we've seen land continually decrease in the amount of land we have available to graze. We had to take into account the fact that this land was no longer grazeable so we had to reduce our stocking rates. Since we've done that, and mind you, in only a short year, we were able to repopulate this ground the way it had been previous to the tree clearing. In addition to that, we were afraid, we were very conscious of our wildlife resource because part of our mission statement is to not hurt ecological system. The deer didn't leave and the turkeys didn't leave, they're still following their same patterns and we're enjoying the same hunting rights and privileges that we have in the past 40 and 50 years. And if anything, we made the habitat better, in my opinion. [LB458]

SENATOR CHRISTENSEN: Can you tell me what happened to stream flow? What you would have had this before the snows and rains here; did it have an impact then? [LB458]

LEVI WHIPPS: I'm not a good answer to answer you for sure that I can say that that was the effect on the stream flow. I will answer that stream flow is up, yes. And I'm by no means a professional on stream flow. [LB458]

SENATOR CHRISTENSEN: Okay, thank you. [LB458]

SENATOR LOUDEN: Other questions for Levi? Thank you for testifying, Levi. [LB458]

LEVI WHIPPS: Thank you. [LB458]

SENATOR LOUDEN: Next testifier? [LB458]

JOHN THORBURN: (Exhibit 7) Good afternoon, Mr. Chairman and Senators, my name

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is John Thorburn, that's J-o-h-n T-h-o-r-b-u-r-n. I'm the manager of Tri-Basin Natural Resources District in Holdrege. I am also here today to represent the Nebraska Association of Resources Districts. We strongly agree with Senator Carlson that Nebraska's rivers belong to all of us and that all state residents benefit from improvements to our liquid highways. The recent drought has provided ideal conditions for invasive riparian plants to displace native species and expand into previously bare sand of river channels. As these plants become established, they clog stream channels reducing their capacity and increasing potential for lowland flooding. These plants are also very thirsty. One salt cedar plant can consume 250 gallons of water in a day. Tri-Basin NRD is working with landowners and county weed superintendents along the Platte and Republican Rivers to help improve management of riparian lands. These efforts have had some successes. We have inventoried locations where noxious weeds and certain invasive plants live. We have raised awareness among river landowners about the nature of the problem and about the species of weeds that need to be eradicated. We have developed control plans and worked with landowners to implement them. We have applied for grants and we have used grant funds along with money provided by the Attorney General's office as a result of an environmental lawsuit settlement, to spray herbicide on more than 640 acres of salt cedar-infested shoreline around Harlan County Lake last year. In spite of our successes, we are losing ground in our battle against invasive riparian plants. Phragmites' rate is spreading rapidly down the Platte. Virtually the entire river channel from Lake McConaughy downstream to Lexington is choked by it. Russian olive trees infest the North Platte River, the Republican River, and many of their tributaries. Salt cedar infestations are extensive around Lake McConaughy and most Republican River reservoirs. Existing control efforts must be expanded significantly as soon as possible, if we are to arrest and eventually reverse the spread of invasive nonnative plants and restore Nebraska's river systems. Since local government funds and expertise are limited, state funds and technical assistance will be necessary to address this problem in a timely, coordinated, and effective way. We believe that LB458 takes the right approach to solving this problem. On behalf of the board of directors of Tri-Basin NRD and the Nebraska Association of Resources Districts, I encourage you to vote to advance LB458 out of committee and make it law in Nebraska. Thank you. [LB458]

SENATOR LOUDEN: Any questions for John? Senator Fischer. [LB458]

SENATOR FISCHER: Thank you, Mr. Chairman. Thank you, Mr. Thorburn for being here today. You said that technical assistance and also funds are available from the state, or are needed from the state... [LB458]

JOHN THORBURN: Yes, ma'am. [LB458]

SENATOR FISCHER: ...in order for the NRDs to accomplish this. What exactly are you looking for in technical assistance? You mentioned a number of projects that your NRD

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has been conducting along the river. What are you looking for from the state if you have any idea specifically? [LB458]

JOHN THORBURN: First of all, Senator, I want to make it clear that it's just not my NRD but we are working very closely with county weed superintendents and other entities. We certainly need assistance from the Nebraska Department of Agriculture and we have received that. They work very closely with the county weed superintendents. The Nebraska Game and Parks Commission, I believe, also has a role to play and they have worked with us on the Republican particularly, and have done some good work in clearing Russian olives around Swanson Reservoir and other places. And the Department of Natural Resources can assist us with helping to quantify the benefits of tree clearing and these sorts of efforts in terms of increasing stream flow. [LB458]

SENATOR FISCHER: Have you been able to quantify any of that up to this point? [LB458]

JOHN THORBURN: No, ma'am, not in the Republican Basin particularly. We just don't have a controlled area or have worked in a controlled area that we can define on a per-acre basis, the benefits. [LB458]

SENATOR FISCHER: Okay, thank you very much, Mr. Thorburn. [LB458]

SENATOR LOUDEN: Other questions for John? Senator Wallman. [LB458]

SENATOR WALLMAN: Thank you, Senator Louden. On this chemical control, have you had any luck with deciduous trees or just cedars? [LB458]

JOHN THORBURN: Well, primarily we've been working on salt cedar and that sort of thing. Yeah, you can effectively control deciduous trees as well as the coniferous red cedar, yes, sir. [LB458]

SENATOR WALLMAN: Thank you. [LB458]

SENATOR LOUDEN: Other questions? I have one, John. I think you probably answered it with your discussion with Senator Fischer, but would the weed districts and the weed superintendents, would that be a good vehicle, or the right people to go into these upper reaches where you do mostly just spraying to control this stuff? Would that be an idea place rather than trying to find another system or someone else? Can the NRDs, I guess I should ask, leverage revenue to help the weed districts in those situations? [LB458]

JOHN THORBURN: Well, yes, Senator. As other speakers have said, it will take cooperative efforts of all levels of government. County weed superintendents have

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certain statutory authorities that NRDs do not, particularly in relation to going on private lands to go after noxious weeds and invasive plants. The next testifier, Bruce Rumsey, the is the chairman of the Twin Valley Weed Management Area, and that's a sort of cooperative group of county weed superintendents, NRDs, and others. And that's, I think, the model for other parts of the state in terms of these control efforts. You are also correct to say that while we have a daunting challenge looking at these big river systems, I think we can do some effective work on the tributaries. And perhaps those areas will show benefits in a more rapid and perhaps even more cost effective way. [LB458]

SENATOR LOUDEN: Okay, thank you. Other questions for John? Senator Fischer. [LB458]

SENATOR FISCHER: Mr. Thorburn, you just mentioned going up into tributaries and possibly doing some clearing up there. Do you have any data on the amount of increase in flow in a stream, is there, do you have any data on that on what the percentage would be if you go up in the tributaries rather than do the main river? [LB458]

JOHN THORBURN: Ma'am, I'm sorry, I do not. I think those do provide opportunities to get those answers though when you have a relatively small sub-watershed; it's easier to gauge and to measure the effects, yes, ma'am. [LB458]

SENATOR FISCHER: So you know if any other NRD has taken that approach? [LB458]

JOHN THORBURN: I believe North Platte NRD, out in the Panhandle, has done some good work on what is called Nine Mile Creek, a tributary of the North Platte River. I guess I just don't know the answer in terms of what the benefits have been other than generally speaking, I've heard that they have seen increased steam flows, yes ma'am. [LB458]

SENATOR FISCHER: Thank you. I appreciate you being here. [LB458]

SENATOR LOUDEN: Other questions for John? Thank you, John, for testifying. [LB458]

JOHN THORBURN: Thank you, Senator. [LB458]

BRUCE RUMSEY: (Exhibit 8) Chairperson, Senators, my name is Bruce Rumsey, B-r-u-c-e R-u-m-s-e-y. I'm the chairman of the Twin Valley Weed Management Area. I'm also the Clay County weed superintendent. The Twin Valley Weed Management Group consists of public and private agencies and individuals that are concerned with stopping the spread of noxious and invasive plants located in the Twin Valley Weed Management Area. The area includes Adams, Clay, Fillmore, Furnas, Harlan, Franklin, Webster, Nuckolls, and Thayer Counties. Also included in this is the Republican River Basin from

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Cambridge to the Kansas-Nebraska line. The partners include county noxious weed control authorities, Lower Republican, Little Blue, and Tri-Basin NRD, United States Army Corps of Engineers, Natural Resource Conservation Service, U.S. Fish and Wildlife Service, Trailblazer RC&D, Nebraska Department of Ag, Nebraska Game and Parks, UNK, University of Nebraska Extension, Bostwick Irrigation District, and private landowners. This list is not all inclusive of the Twin Valley Weed Management Area, but is to provide an idea of the composition of the organization. We were formed in 2004 and we began scouting the Republican River for noxious and invasive plants species. The first inspections revealed small infestations of salt cedar, Russian olive, and phragmites. Dense stands of native vegetation were also noted. Weak stream flow caused by prolonged drought conditions allowed establishment of these dense stands. And part of this information has already been given to you and so I won't dwell on that. But we have done some follow-up inspections in 2005 and 2006 and what was alarming was the rapid expansion of phragmites down the streambed. Phragmites, or common reed, is a tall perennial grass that can grow over 15 feet in height. Once introduced, phragmites can quickly take over wetland communities crowding out native plants and can turn into a monoculture very quickly. Phragmites is a consumptive water user. Twin Valley Weed Management Area has received \$125,000 in grants and has completed several projects on the Republican River, Harlan County Dam, and the Little Blue River. The infestations are in their beginning stages and it is more cost and labor efficient to address the problem now rather than to wait. The Twin Valley is geared up to work with landowners utilizing whatever funding is available in an effective and efficient manner. We support the passage of LB458. [LB458]

SENATOR LOUDEN: Thank you. Questions for Bruce? Senator Fischer. [LB458]

SENATOR FISCHER: Thank you, Chairman Louden. Welcome today, Mr. Rumsey, I'm happy you're here. You mentioned grants in your testimony. Where did you receive those from, are they federal grants? [LB458]

BRUCE RUMSEY: One was a federal grant. It was a pulling together initiative. It was from the U.S. Fish and Wildlife Agency, Forestry. They kind of pool their grant money and then you can apply for it for these types of projects. The other one was administered by the Noxious Weed Program through the Department of Ag. The other was money from the Attorney General's office here in the state of Nebraska. [LB458]

SENATOR FISCHER: Really. And what was that earmarked for? [LB458]

BRUCE RUMSEY: Basically, the NRDs helped us secure that and it was secured right there towards the end. Basically, our project involved hiring a spray applicator, it was a helicopter and we done some work on Harlan County Dam which I don't know whether you people are aware or not, is 19 foot below full pool, which exposes about 4,000 acres of lake bed which in one way, shape or form, is infested with salt cedar,

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phragmites, Canada thistle, plus other native species. [LB458]

SENATOR FISCHER: What species did you, I assume the helicopter did spraying, and what species did they spray for? [LB458]

BRUCE RUMSEY: They targeted salt cedar. [LB458]

SENATOR FISCHER: Would it work with purple loosestrife too? [LB458]

BRUCE RUMSEY: Yes, ma'am. [LB458]

SENATOR FISCHER: Okay. Do you know if it has been used in that way? [LB458]

BRUCE RUMSEY: Yes, it has. [LB458]

SENATOR FISCHER: Okay. Do you know if private landowners have any access to grants, either at the federal level or the state level, to take care of any kind of vegetation or invasive species? [LB458]

BRUCE RUMSEY: I don't have an answer to that question, ma'am. [LB458]

SENATOR FISCHER: Okay, thank you very much. [LB458]

SENATOR LOUDEN: Questions for...Senator Wallman. [LB458]

SENATOR WALLMAN: Thank you, Senator Louden. These phragmites, is that like a reed canary grass? [LB458]

BRUCE RUMSEY: No, I guess I was... [LB458]

SENATOR WALLMAN: It's bigger? [LB458]

BRUCE RUMSEY: It's bigger. When I say 10 to 15 foot tall, I'm not exaggerating, sir. [LB458]

SENATOR WALLMAN: That would be tough to fill, huh? What do you kill that with? [LB458]

BRUCE RUMSEY: There's just a very few aquatic herbicides and there's been some work done mechanically and also culturally, burning, grazing with goats and with this and that and the other. [LB458]

SENATOR WALLMAN: Is that spread by the roots or...? [LB458]

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BRUCE RUMSEY: That spray usually needs to be broadcast over the biomass of the plant and then that herbicide translocates through the plant into the root system. [LB458]

SENATOR WALLMAN: Thank you. [LB458]

SENATOR LOUDEN: Senator Dubas. [LB458]

SENATOR DUBAS: Thank you, Senator Louden. Thank you for mentioning the goats. I just read an article about that the other day and so that clicked. Is that in the realm of possibility to use...? [LB458]

BRUCE RUMSEY: It's a management tool. There's no one silver bullet to cure all of this. We'd like to use an integrated pest management type of an approach to this and all of these things are tools. We've even got a biological release on salt cedar by the University of Nebraska at Kearney. I guess they're monitoring it and APHIS made the release. This is a salt cedar beetle, so that's a biological control, so there's different types of controls. The goats, to answer your question, I guess, it takes real intensive grazing practices and some penning-type of things and they will mow it right down to the ground, but this has to be repeated and repeated and I guess the jury is still out whether it actually decreases density or not. [LB458]

SENATOR DUBAS: Okay. Thank you. [LB458]

SENATOR LOUDEN: Other questions for Bruce? Senator Fischer. [LB458]

SENATOR FISCHER: Thank you, Senator Louden. Mr. Rumsey, have you seen through these efforts, any increase in stream flow in the areas that you've used them? [LB458]

BRUCE RUMSEY: We haven't done enough work basically to, I would say, warrant any type of...but no, I have not seen any stream... In the Republican, I was involved in probably 14 miles and we worked on phragmites and that was it and that was basically what was occurring on the sandbars just because of its invasive nature. We can handle it right now and so that's what we worked on and we didn't remove any large types of vegetation or anything of this nature and have no way of knowing if that increased stream flow or not. [LB458]

SENATOR FISCHER: Do you know if anyone, university, state, anyone's doing any kind of study on this to see if it's helpful? [LB458]

BRUCE RUMSEY: John Thorburn, what he mentioned before, that would be a good

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source, the Nine Mile Creek project would be a good source to answer that question.
[LB458]

SENATOR FISCHER: Thank you. [LB458]

BRUCE RUMSEY: Um-hum. [LB458]

SENATOR LOUDEN: Other questions for Bruce? Seeing none, thank you for testifying.
Go ahead. [LB458]

DAN SMITH: (Exhibit 9) Thank you. Senator Louden, members of the Natural Resources Committee, my name is Dan Smith, I'm the manager of the Middle Republican Natural Resources District. I'm here today representing the district to offer testimony of support with regard to the amendment of LB458. I do have written comments that I'm circulating I will not dwell on, I will not read all of those to you in the interest of time here. I do want to touch on a few things that are important to the district. Riparian vegetation management is important to the district. It's one of the priorities that's been identified by my board and consequently we're in support of LB458 and the way it's structured now and the things that it can do for us. Our only basic concerns are really that with the task force and that it's a year down the road before maybe some plans can be made, but we can work with that too. A very important component of LB458 now, as far as I'm concerned, is the Invasive Species Fund. Funding is always important, it's important to the districts in the Republican River Basin. We do have a project, a grant project, from last year's Interrelated Water Management Fund program dollars that will look at three stretches on the main stem of the Republican in each of the main stem NRDs, the Upper, Middle, and Lower Republican NRDs. That project, while it is not a clear-cut project and while our project will be looking at the bank of the river out, rather than clearing in the channel, what we hope to do is remove invasive species, remove excess native species, we're not looking at going in and doing a clear-cut project as has been mentioned. All of these projects are going to be on private land and we do have to work with willing landowners to do this. But our project then will involve some additional funding through the Department of Natural Resources and the University of Nebraska where some equipment can be set up to evaluate then, what the benefit of those projects are. Will we see a reduction in ET, will we see an increase in stream flow, and hopefully we'll have those components in place that will give us a project that we can do that on. Once again, a nice thing about this fund is the opportunity then maybe to take our beginning project and by 2008 or 2009, whenever funding can become available to extend the work we started. Our basic program is around three years. It'll take that long for the university to get their equipment up and evaluations made. We're looking forward to it. Funding is, as I said, as much, is as important as anything to us. We worry about what we are going to be able to do, we are strapped locally, if you will, with property taxes--most of us are at a levy limit. We have indicated through some work that we're doing with DNR now that we would probably

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support going above our current limits if we had that authority and we need that opportunity to generate both local funds and state funds. And with projects into this case, we may have an excellent opportunity to leverage some federal funds even with these types of projects. [LB458]

SENATOR LOUDEN: Questions for Dan? Senator Fischer. [LB458]

SENATOR FISCHER: Thank you, Senator Louden. Mr. Smith, welcome. [LB458]

DAN SMITH: Yes, ma'am, thank you. [LB458]

SENATOR FISCHER: You notice the looks I get here from the chairman? I do the same to him in Transportation Committee, so it's okay. In the amendment to the bill that Senator Carlson has presented to us, he's asking the Legislature to appropriate \$2 million for this fund. When you speak of...of course, I would like to thank you for your handout and I thank you for not reading it (laughter) and I was, as you've seen, but I'm glancing through it as you were giving your testimony and it's excellent, by the way, thank you very much. You're talking about local funding. So besides the \$2 million that Senator Carlson is asking for, which he can correct me if I'm wrong, but I see that he's asking for in his amendment, how much do you think the NRDs, you local NRD, would need and would you need a levy increase? [LB458]

DAN SMITH: Basically, yes. If not a levy increase, at the very least, a levy extension of those authorities that came with LB1226 last year. We took advantage of the additional penny of authority that came with LB962 from two years ago. We did not use that LB1226 authority but, and that basically runs our current daily programs. As we increase our activity with regard to water management, we are going to need more funds to do different projects such as--and I am assuming that as we go along, that the natural resources districts are going to work real close with the local weed control authorities. To me, that's the smartest agency to be doing this type of work. But if we've got the opportunity to pool our funds to leverage state funds, to leverage federal funds, should we be able to have the chance, we want to be able to do that. So as to quantify how much we need is going to depend on how big of a project we're going to be able to do. If our mile long stretches prove that we can get some benefits, some bang for the buck, if you will, then I imagine the districts in the basin will probably be willing to take on a project that might do that type of work the entire length. If we find from our project that you're not going to gain more value in the water for the cost that it takes to remove those trees to maintain that vegetation, because you can't just go in and cut or dig or whatever, they need to be treated, they need to have follow-up treatment on the stumps to make sure that you don't have regrowth. So you just can't just cut down a tree and walk away, it takes two to three years of management after that. But if we can show that we can get some benefit, that can show we can generate water back into the river, then it would make sense to continue those projects, leverage as many funds as we can

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possibly get, and continue those projects. Every gallon of water that we can generate for us is one less that we would have to regulate, if you will. [LB458]

SENATOR FISCHER: When you speak of leveraging other funds, would you need more money from your district, an increase in levy? Are you speaking, then, of being able to match federal funds when you have that in your testimony here, leveraging of your funds? [LB458]

DAN SMITH: Ma'am, if it were such that we could get 100 percent funding from the state, we'd take it (laugh). I don't think we'll have that. [LB458]

SENATOR FISCHER: As I said, are you trying for federal funds? [LB458]

DAN SMITH: Yes. I think if we've got an opportunity, once again, through this fund or any other funds. I'm assuming maybe the Interrelated Water Management Plan Program Funding will stay around. And different projects, maybe extension of projects could continue on for that funding. But, once again, if we've got some additional local authority, we're assuming we are going to have to have additional local authority if we are going to make basically, anything we do, work. We're realistic enough to realize that the state's not going to fund everything that needs to be done in the Republican River Basin. We'd hope that we can get some additional, some new dollars. But we know we have to have some local commitment whether that be in dollars or the pain and suffering that comes with regulation; we know we're going to have to put that forward. And then, if we've got those local dollars, then you can't leverage those federal funds if you don't have those local dollars, you about have to have them in front of that project to make it work. [LB458]

SENATOR FISCHER: Okay. Thank you. Excellent testimony. I appreciate it. [LB458]

DAN SMITH: Thank you, ma'am. [LB458]

SENATOR LOUDEN: Senator Wallman. [LB458]

SENATOR WALLMAN: Thank you, Senator Louden. I'll just have a short question. Is the Corps of Engineers involved in any of these studies, you know? [LB458]

DAN SMITH: Not directly in our project simply because we are assuming we are going to be above Harlan County on that. Now we are working closely with the local RC&Ds and simply because they had started a project they intended to put in, in an Environmental Trust Fund grant, with the local weed control districts and we sort of jumped in on top of the weed control districts. I think we upset a couple of them initially, hopefully we've smoothed those hard feelings. But we saw the opportunity through the new funding last year to propose this project and continue on from the foundation, the

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base work that they put together in planning the project. So we were able to draft a project, the narrative for the project, in a matter of a few days. [LB458]

SENATOR WALLMAN: Thank you. [LB458]

DAN SMITH: Thank you, sir. [LB458]

SENATOR WALLMAN: Thank you, Chairman Louden. [LB458]

SENATOR LOUDEN: Other questions? Seeing none, thank you for testifying. [LB458]

DAN SMITH: Thank you, sir. [LB458]

SENATOR LOUDEN: Next testifier? [LB458]

KEN WINSTON: It isn't often that I get to testify before Ed Schrock. [LB458]

SENATOR LOUDEN: We'll shut you short then, Ken, just so you don't feel out of place (laughter). [LB458]

KEN WINSTON: (Exhibit 10) Okay. All right. This concludes my testimony (laughter). For the record my name is Ken Winston, last name is spelled W-i-n-s-t-o-n. I'm appearing on behalf of the Nebraska Chapter of the Sierra Club. Of course, I am in awe of the expertise of some of the people that have testified ahead of me today and I won't claim to have that kind of expertise regarding dealing with weeds and invasive species, but I just wanted to come in here and talk a little bit about...well, first of all our support for Senator Carlson's bill...I wanted to make a comment. Three years ago, I talked to Senator Kremer about introducing legislation dealing with invasive weeds and at that time, he declined, so I'm glad to see that Senator Carlson is taking this leadership on this issue. And the reason we support this is we want to see whatever can be done in terms of conserving natural resources and we believe that the removal of vegetation that unnecessarily consumes those resources is an important part of that process. We are also in support of increasing in-stream flows. Then I wanted to talk a little bit about some philosophical concerns that I wanted to make sure are addressed in this process. First of all, and as I've indicated, I'm no expert in weed removal but we'd want to make sure that the weeds are removed in a way that is environmentally appropriate, that herbicides aren't used that cause other environmental damage. And so that would be one concern that we'd want to raise. Secondly, if we are removing the plants that are biomass and other activities that could be beneficial uses of the plants, if that is appropriate, and I guess that's something we'd like to have considered. Then finally, thirdly, I shouldn't say finally, I have a couple more things I wanted to suggest here, that removal of vegetation is only one part of this process and in conservation, there's a number of conservation aspects that need to be considered, then we'd ask that for

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environmental representative on any task force. And then finally, regarding the funding, we'd ask that funding not be taken away from other funding sources because there's a limited amount of funds for environmental and conservation efforts and we'd ask that one fund not be raided in order to fund this activity. And I'd be glad to answer any questions. [LB458]

SENATOR LOUDEN: Any questions for Ken? Senator Wallman. [LB458]

SENATOR WALLMAN: Thank you, Chairman Louden, just one. Doesn't the Sierra Club fund some of this stuff? (Laugh) [LB458]

KEN WINSTON: Sierra Club doesn't...we have actually, there are activities where they do go out and cut down salt cedars for example. They've organized outings to eliminate some of those things. [LB458]

SENATOR WALLMAN: Thank you. (Laugh) [LB458]

SENATOR LOUDEN: Any other questions for Ken? [LB458]

KEN WINSTON: We don't have much money, though, Senator. [LB458]

SENATOR WALLMAN: Yeah. [LB458]

SENATOR LOUDEN: Thank you, Ken, for testifying. [LB458]

KEN WINSTON: Thank you. [LB458]

SENATOR LOUDEN: Welcome, Senator Schrock. We don't see you on that side of the table very often. [LB458]

ED SCHROCK: I guess it's Director Schrock now. I have a new job, so... [LB458]

SENATOR LOUDEN: I see. Does it pay better? [LB458]

ED SCHROCK: It does. (Laughter) [LB458]

SENATOR LOUDEN: Good. Congratulations. [LB458]

ED SCHROCK: For the record, my name is Ed Schrock, that's spelled S-c-h-r-o-c-k. I served the legislative district that Tom served, for 12 years, and so I should say, Senator Carlson. Tom and I have known each other a long time and I appreciate him introducing this bill. I am here to testify on behalf of the South Platte Chamber of Commerce today. They asked me to testify. I'm their new legislative committee chair,

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imagine that. Interestingly enough, the last two South Platte Chamber of Commerce meetings, the January and February meetings, were cancelled because of ice. Now I've got it figured out, if we have a few more ice storms, there won't be any trees left in south central Nebraska, and so maybe that's a benefit. It is interesting that my NPPD district that I represent, the Nebraska Public Power District, seems to encompass almost all of the Republican River Basin. It goes from the community of Hastings all the way to Imperial. And I can tell you that I'm not testifying on behalf of NPPD, but I know the power industry, the NPPD, and the rural electric associations, are very concerned about the ag economy of the Republican River Basin, and the Platte River Basin for that matter, because irrigation wells, grain dryers, aeration fans, they're all powered with electricity. And they are concerned about the energy load and what could happen to the wells if they are not allowed to pump. So, it's an interesting thing. South Platte Chamber has not looked at the bill in depth, Senator Carlson, but as everybody has said, we do know that these species do consume water. When my father was a young man, he could stand on the bridge at Odessa and see the Kearney bridge nine miles away. You can't do that today as you well know. I would encourage this committee to become active in the Water Policy Task Force and perhaps they can be of some benefit to this issue as you know that, Senator Loudon, you and Senator Hudkins are now members of the task force. I'm also encouraged by the water situation in the Republican River Basin. I understand the Republican River Basin is flowing. Whenever I went to Alma, I always drove across the bridge to see if there was any water flowing and usually there wasn't. Maybe if it would take a change in leadership of the Natural Resources Committee to get water (laughter) and the weather turned around, if that's what it'd take, I should have left four years ago, Senator Loudon, and maybe some people behind me would applaud that (laughter). But I'm encouraged by that, I'm encouraged by the fact that the Department of Natural Resources has found an accounting error and we are not as far out of compliance as we thought we were. But there's water running into Kansas; Harlan County Reservoir is increasing. I assume Harry Strunk Lake is almost full and will be spilling. This all bodes well to resolving the problem and so that is very encouraging. I see Dave Hendee is here from the Omaha World-Herald. I would like this committee, the Legislature, and our state's largest newspaper, to recognize that these irrigation wells in the Republican River Basin are not liabilities; they are assets and should be managed as such to their fullest extent as possible. Certainly if we have a compliance problem, regulation is necessary, perhaps buying out some acres, whatever it takes...use federal funds, use state funds, use local funds and do what you can to solve the problem. But they're assets and it makes it tougher to buy acres when corn is \$4 a bushel than when it's \$2. So I would hope that you would consider them as such and treat them as assets, treat them with tender care and with respect. These are farmers' livelihoods. Become very proactive in the issue. Have some interim study hearings out in the basin. Take a tour of the Republican River Basin again, listen to what the people have to say out there. It's good to be back. As you know, Jody and Barb worked for me for a considerable amount of time and LeRoy, I must confess, I kind of miss them, so you're the kind of committee that's fortunate to have them. And it's good to see familiar

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faces and some new faces. Senator Carlson, I commend you for introducing this bill. I would hope that you would advance it and maybe enhance it a little bit with some local funds, whatever it takes. I've rambled long enough and I know that you don't like to hear people talk a long time. [LB458]

SENATOR LOUDEN: Any questions for Director Schrock? Seeing none, Ed, thank you for coming today to testify. [LB458]

ED SCHROCK: It's good to be with you. [LB458]

JASPER FANNING: (Exhibit 11) I'm Jasper Fanning, I'm the general manager of the Upper Republican Natural Resources District, and that's Fanning, F-a-n-n-i-n-g. I'd like to highlight one thing. If you remember nothing else today, remember this. And that is that the Upper Republican Natural Resources District along with the other natural resources districts in the basin, have recently been engaged in a number of meetings with the Department of Natural Resources and I feel that, within the basin, at this time, we've never been closer in agreement with what needs to be done to move forward and maintain compliance with the compact. Some of these recent meeting have maybe had a newspaper reporter that highlighted every negative comment that was made during the day during discussions, but at the end of the day, there was much agreement on what needed to be done. Where we have agreement today is we have pretty good agreement that the funding is the biggest issue that we face. And as we develop a plan that encompasses both the long-term solution as well as the short-term solutions that allow us to deal with short-term drought periods, we need to have a plan that can be very dynamic. We are already regulating. In our case, we've been regulating groundwater and allocating groundwater for 31 years now, in our district. Our district is part of the reason that we have some of the authorities that we have today as NRDs. But regulation alone is not the best solution to this problem and that is why we're seeking alternative solutions such as some of the surface water buyouts and those types of things that have been done in the past and will be continued in the future in all likelihood, during drought periods. Because in order for the basin to thrive and survive the best that it can as we comply with the compact, we need to make the maximum use of the water that we have available. And to comply through groundwater regulation alone would require that we overregulate during normal years because the impacts of regulation are so slow to come to the stream. We have to have some sort of a mechanism that allows us to act as a shock absorber during drought periods, uses of water that can be, uses of stream flow that can be managed and where the benefits show up in a very short period of time. And that's where things like surface water buyouts come in and vegetation management is one of those things that can have a relatively quicker impact because we are talking about managing water use right next to the stream. So in this plan, there are going to be many components, one of which is vegetation management which LB458 addresses. And there is a lot of support in the basin and I think even statewide for beginning to get a handle on our vegetation

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problems in the riparian areas, and that's why we're here offering our support for LB458 at this time. [LB458]

SENATOR LOUDEN: Questions for Mr. Fanning? Senator Fischer. [LB458]

SENATOR FISCHER: Thank you, Senator Louden. Welcome, Mr. Fanning, Dr. Fanning. In your written testimony here, you have brought up also the idea that you need to have an increase in your property tax levy and is that what you're asking for in the testimony you presented here in written form? [LB458]

JASPER FANNING: And I think, again, thank you, Senator Fischer, for the question. The important thing is the overall plan and there are things such as vegetation management that will require funding as well as some of the other things that I mentioned. And our natural resources district is at our levy limit. We are "maxed" out. We have a little bit of cash reserve sitting around to fund the initial things of projects just like this. But I guess what I would say is that the people in the basin that we represent are constituents, all of the folks that live there, recognize that this problem is, they have some ownership in this problem. And they recognize it may necessary for them to contribute and they are willing to do so. They've contributed heavily already through regulations and through the current property taxes, especially in our district. If there's a solution to the problem that requires funding, they see it as a wise investment. [LB458]

SENATOR FISCHER: You listed a couple of other ideas here for additional funding, one revenue measure, per acre-feet paid water users, per bushel excise tax on farm products similar to a checkoff program. Is your NRD board in favor of those? I assume they are since you are here representing them. [LB458]

JASPER FANNING: My board actually promoted the per-acre fee as opposed to a property tax. My board's position was that they felt that our property taxes were high enough and maybe the irrigators themselves would need to bear more of the additional expense as we move forward. Within the basin, though, when we met as a group, all the NRDs and the department, there was strong sentiment from other NRDs that property taxes was the way to go because everyone in the basin benefits whether they are an irrigator or someone who works at a business that is there because of irrigation and farming. [LB458]

SENATOR FISCHER: Could you charge the per-acre fee on your water users right now? Can an NRD do that? [LB458]

JASPER FANNING: There is no clear authority right now that that can be done. There's some language that came with LB962 that said incentive programs could be used but there was no clear authority that you could charge a per-acre fee. [LB458]

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SENATOR FISCHER: I appreciate your being here and thank you for the excellent testimony. [LB458]

JASPER FANNING: Thank you. [LB458]

SENATOR LOUDEN: Senator Christensen. [LB458]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. Mr. Fanning, if you used dollars however you generate it to clear vegetation management, who all will it benefit? [LB458]

JASPER FANNING: I think it will benefit all of Nebraska, every Nebraskan in that if you are talking about increasing stream flows and causing compliance with the Republican River Compact settlement agreement, then if we comply--that was an investment made by all Nebraskans because if we are out of compliance, likely the state is going to be paying some amount of money and obviously all Nebraskans would be paying this. So I think the benefit is for all Nebraskans. [LB458]

SENATOR CHRISTENSEN: I agree, I just...thank you. [LB458]

SENATOR LOUDEN: Other questions? Oh, Senator Hudkins. You're sitting too close, I didn't see you. [LB458]

SENATOR HUDKINS: Mr. Fanning, thank you for being here today. I had a question. You talked about perhaps a per bushel excise tax on farm products. Are there any corn growers in your area that don't irrigate? [LB458]

JASPER FANNING: There would be some, a very small percentage of producers in our area don't irrigate. I can't give you an exact number, but a handful. [LB458]

SENATOR HUDKINS: But there are some? Should they also be asked to contribute to this per-bushel fee because they're not using the water? [LB458]

JASPER FANNING: Well, they may not be using irrigation water but part of the compact, what we are really talking about is consumptive use of water, some of which is rainfall, some of which is irrigation water. So everyone who produces an agricultural crop, whether it be grass that goes to a cow, corn that's either dryland or irrigated, it all consumes water that could otherwise end up in the river at some point. So to say that a dryland person doesn't use water is incorrect, but they do not use irrigation water, that would be correct. [LB458]

SENATOR HUDKINS: Thank you. [LB458]

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SENATOR LOUDEN: Any other questions? I have two questions, one to follow up on Senator Hudkins' discussion. If you do a price per bushel-type deal, someone that's raising their grain and feeding it to their cattle then, wouldn't be paying that checkoff, right? You about have to run it through an elevator or get a trucking slip or something to show that that changed hands in order to get a checkoff, is that correct? [LB458]

JASPER FANNING: Yeah, this would, you know, some of the problems or issues with something like that would be the same problems that we have with the current checkoffs that are out there. The one thing that something like that has to offer is that if it's put on as a percentage of price, what we are dealing with right now with \$4 corn being at all time high is, when you are trying to buy water for compliance, trust me, we've talked and the price of water is directly related to the price of corn. When corn is \$2, water is pretty cheap. When corn is \$4, it's a lot more expensive because the value of that water to the irrigator is so much more. So the beauty of a mechanism like that is if it's a percentage of the price received, then you generate more dollars when water is more expensive to address the problem of when corn is a lower price. People pay a little bit less because the water is cheaper. That would be the one thing that that mechanism would have in favor of it that the other mechanisms would not. [LB458]

SENATOR LOUDEN: Okay, my next question, when you talk about buyouts and leases and that sort of thing in the last part of your statement here, I presume you have flow meters on all your wells in your NRD? [LB458]

JASPER FANNING: Since 1978. [LB458]

SENATOR LOUDEN: Okay. Should you have soil profile meters or soil moisture meters? Should that go along with flow meters so that people know how much water they're putting on or whether they should be any putting on? Should that be something the NRD has to go towards or look into? [LB458]

JASPER FANNING: What we, our history would indicate is that as we lowered the allocation to a point where our allocation does not provide the full crop irrigation requirement, our farmers and irrigators are the most efficient that they can be and many of them are doing that just to manage their water, their irrigation water. A lot of people have the probes already on their own and frankly, a lot of people, the most I, I don't know an irrigated farmer who doesn't own a manual soil probe that can't pull out... [LB458]

SENATOR LOUDEN: Right. [LB458]

JASPER FANNING: ...a core of soil and see how wet it is. [LB458]

SENATOR LOUDEN: But the technology is there for these newer... [LB458]

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JASPER FANNING: It is and it's being adopted. [LB458]

SENATOR LOUDEN: Yeah, okay. My last question is, does anybody trade water from one field to another or from one neighbor to the other, something like that, in your district? [LB458]

JASPER FANNING: There is, you know, we have a concept of pooling because our allocation is so low relative to the crop irrigation requirement. People can take one field and perhaps put alfalfa on that field so that they can have an entire field of alfalfa that uses more water than say, corn or wheat and those kind of things. And they can save water on another field to use on that higher water use crop so that people--if you don't allow that and you have a crop that requires more water than you have available... [LB458]

SENATOR LOUDEN: Is that done...does the same person have to own both fields? Or can one person transfer their water to another person? [LB458]

JASPER FANNING: It can actually, you know, be through different landowners because in some cases a lot of the rented ground, there may be a landowner and a tenant farmer, may pool both the ground he owns as well as the ground he farms, if someone else's... [LB458]

SENATOR LOUDEN: Then is there a price put on that water? [LB458]

JASPER FANNING: There's nothing that goes through our district that we approve. Water does have value and yes, I mean that's obviously reflected in rental rates. [LB458]

SENATOR LOUDEN: Okay, I just wondered, do you know what the price of an acre-foot of water is when you trade it from one field to another? [LB458]

JASPER FANNING: No, I don't. I can't give you an exact price off the top of my head. [LB458]

SENATOR LOUDEN: Okay. Thank you. Senator Fischer. [LB458]

SENATOR FISCHER: Thank you, Senator Louden. A couple more questions popped into my head here, please, Dr. Fanning. In your written testimony you say every Nebraskan should know this fact: shutting off groundwater irrigation alone will not keep Nebraska in compliance with the Republican River settlement. I'd like you to respond to that. And also when you say that the NRDs have been addressing water conservation issues for three decades and have used the limited authority allowed them by the state

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to reduce water use. If you could address those two in more detail? [LB458]

JASPER FANNING: Yes, I can respond to both of those. The department recently did some modeling and basically illustrated that we, to be in compliance, we have to make up a lot of water in the immediate future within this next year, within 2007. And when they modeled shutting down approximately 65 percent of the pumping next to the stream which is where essentially all of your benefit comes from in the short-term, it still took about five years to get into compliance. And so there are other things that we can do such as the surface water buyouts that will get us close enough that we can get there. But shutting down groundwater irrigation alone as a solution is really no solution. [LB458]

SENATOR FISCHER: And the second one, what have the NRDs been doing to address the conservation measures for the last 30 years? [LB458]

JASPER FANNING: Well, in 1977, folks, water users in our area, lobbied essentially for the creation of the NRDs because of the development that happened in our area, because of the value of irrigation out there, and could see that there was a problem on the horizon. Really, they saw it first hand. And the first Ground Water Management Protection Act, it did not have a moratorium we could enact in response to them. Authorities were doled out very slowly. The Legislature being conservative and cautious is very understandable, but we already had as many wells as what we needed if there was going to be no limits placed on use at that time. And so we enacted allocations and well spacing, and in fact, the first couple of sets of rules that we had took the well spacing from the state's spacing of, and we increased it to a half mile and then to a mile. So you couldn't drill a new irrigation well within a mile of an existing irrigation well which is the standard that we still have today. But the moratorium at that time, early on, was kind of a last-ditch option. You had to try essentially these other controls such as well spacing and allocations. And actually, like in the late eighties, early nineties when we had what I would call a pretty wet period in our area, it actually looked like we were getting a pretty good handle on the declines, or we were making progress, and obviously during a drought when you have very little recharge, then our declines show back up pretty good again. But essentially, LB962 is what finally put moratorium on the same level as the other controls available so that if you saw you had a problem, your initial response could be a moratorium because of that problem. You didn't have to wait several years to try these other controls before putting on a moratorium. And so a lot of the changes in authorities made recently would have been nice maybe 20 or 30 years ago. [LB458]

SENATOR FISCHER: Okay, thank you. [LB458]

SENATOR LOUDEN: Senator Kopplin. [LB458]

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SENATOR KOPPLIN: Yes. The slowing down of the use of the groundwater would not provide enough water to solve the short-term problem. Would it have a long-term benefit? [LB458]

JASPER FANNING: Absolutely. Reduced groundwater use has a long-term impact and the department's modeling shows that the controls that we've put in place already will have impacts that grow, I believe they modeled out 40 years, and the benefits were increasing for the full 40 years. And so, groundwater regulation, which we're already doing, that is really the long-term problem. We need to continue to offset the lag effect from pumping that's already occurred and basically it would allow us to maintain our long-term average use at a level that would be in compliance with our long-term average allocation and make it possible for the shock absorber type mechanisms to be able to cover the gaps during a drought period. [LB458]

SENATOR KOPPLIN: Thank you. [LB458]

SENATOR LOUDEN: Other questions? Thank you for testifying. [LB458]

JASPER FANNING: Thank you. [LB458]

SENATOR LOUDEN: Go ahead, sir. [LB458]

STEVE NELSON: (Exhibit 12) Thank you. Good afternoon, Senator Louden. My name is Steve Nelson, S-t-e-v-e N-e-l-s-o-n. I'm a farmer from Axtell. I currently serve as vice president of the Nebraska Farm Bureau Federation and I also farm land in the Lower Republican NRD. I'm here on behalf of Nebraska Farm Bureau in support of LB458 and the amendments to LB458. I have also been asked to state for the record, the support of the Nebraska Water Resources Association and the Nebraska State Irrigation Association. Copies of my testimony have been distributed; I am not going to read that to you. Much of our comments have been stated. We certainly do support the efforts of Senator Carlson and the efforts of riparian vegetation management as a part of the plan to the solution in the Republican River Basin, as well as part of the solution to other issues in other basins throughout the state. I would also add too that from a funding standpoint and this is certainly not the position the Nebraska Farm Bureau always takes, but we do support or have preference to additional tax levies that deal with some of these issues as a preferred way of additional funding. And we certainly do encourage the continued efforts of the natural resources districts and the Department of Natural Resources working together with other agencies to find solutions in these basins. So at this time I would just stop and answer any questions that I could, Mr. Chairman. [LB458]

SENATOR LOUDEN: Any questions for Steve? Seeing none, thank you, Steve, for testifying. [LB458]

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STEVE NELSON: Thank you. [LB458]

NELSON TRAMBLY: Senator Louden, members of the Natural Resources Committee, my name is Nelson Trambly, T-r-a-m-b-l-y. I am here to testify as a member of, and on behalf of, the Lower Republican Natural Resources District in support of LB458. My manager was sick so I had to volunteer to do this, so (laughter) be with me, okay? Thank you for giving me the opportunity to speak today. As well as you know, extended drought conditions has caused many of our streams and tributaries to reduce to a trickle. This in turn has led to an influx of trees, bushes, weeds, and a host of other plants growing in stream channels. Some of the plants are noxious as well as invasive natural species. Nonetheless, they are all choking stream channels and reducing existing flows as well as consuming water and hindering the capacity of these streams. If any of you has been west to view the Republican or the Platte Rivers, you know what I am talking about; the river beds are almost unrecognizable because of vegetative growth. The Republican Basin NRDs along with the Nebraska Department of Natural Resources, have worked hard over the past several months to come up with a draft plan to keep Nebraska in compliance with the Republican River Compact. A key element of this plan is to manage the vegetation, increase channel flow capacity. Our goal is to reduce nonbeneficial consumptive use of water with the result of increasing steam flow. We see LB458 as a key component in getting in mainstream compliance with the compact. The concept of Senator Carlson's bill and proposed amendments are important steps in the process of managing water in the Republican Basin. We are appreciative of his efforts to study the issue and create a Riparian Vegetation Management Task Force to develop and prioritize vegetation management goals and recommended funding. We would, however, ask that the committee consider adding an emergency clause to the bill. Study of vegetation management is urgently important to the river basin and we would ask that this study and a task force be put on the fast-track to find and prioritize solutions as quickly as possible so that we can assist the producers and the communities in fully appropriated basins across the state. Many of you know that the Lower Republican NRD has implemented the strictest groundwater controls in the state. In addition to the strict controls for the past two years, '05 and '06, producers in the Lower Republican pump 38 percent below their allocation. As we completed our second year of our integrated management plan, we have pumped 17 percent below where the Department of Natural Resources said we should be for compact compliance. Yet with all of our efforts to date, Nebraska is still falling short in our compliance objectives. Clearly measuring the effects of water reductions is not an exact science. It is frustrating for the department and for the legislator, and frustrating for those of us who are trying to comply with the terms of the Republican Compact. We appreciate efforts of the state in working with NRDs in the basin to find solutions. We recognize that regardless of the efforts of the NRDs, without contributions and recognition by the state, at least in a short-term, compliance will be very difficult. To that end, we are hopeful that the committee will consider giving NRDs in the basin additional funding authority to be coupled with the state match to implement the activities in our draft plan. The plan

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would include reducing water usage in existing surface groundwater and water areas, the construction of augmentation projects, and import or retime the use of water; and vegetation management. I would like to close by saying thank you, Senator Carlson, for your efforts. We appreciate the importance of vegetation control and feel it can be a key component with compliance with the Republican River settlement agreement. Thank you. [LB458]

SENATOR LOUDEN: Questions for Nelson? Senator Carlson. [LB458]

SENATOR CARLSON: Senator Louden. For the record, Nelson, I never thought I'd see the day you were just a little bit bashful and a little bit nervous and it's kind of fun (laughter). [LB458]

NELSON TRAMBLY: That's an understatement of the year. [LB458]

SENATOR CARLSON: And I appreciate your testimony, thank you. [LB458]

SENATOR LOUDEN: Other questions? Senator Christensen. [LB458]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. Nelson...we'll pick on you, you're at least the third...natural resources district to ask for more money. In asking for additional money, do you guys have a plan already set up for utilization of the money or...and the amount you're needing? What...so you have any directions there? [LB458]

NELSON TRAMBLY: Well, like the other managers of the basin has talked, we are working on situations...and in all, three or four NRDs are working together in it. But we all need money to succeed with these plans, you know? Whether it be this, groundwater, buyout, or whatever it is. And in response to what the Omaha World-Herald does say, we are getting along and we are working together. [LB458]

SENATOR CHRISTENSEN: Thank you. [LB458]

SENATOR LOUDEN: Other questions for Nelson? Well, thanks for testifying, you got one more under your saddle now. (Laughter) [LB458]

NELSON TRAMBLY: Thank you. [LB458]

FRANK ALBRECHT: Good afternoon, Senator Louden, members of the Natural Resources Committee. My name is Frank Albrecht, Albrecht is spelled A-l-b-r-e-c-h-t. I'm here representing the Nebraska Game and Parks Commission today. My testimony today is, the Nebraska Game and Parks Commission supports the efforts outlined in LB458. These efforts to address nonnative invasive vegetation falls directly in line with the mission statement of the Nebraska Game and Parks Commission. We recognize

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that this will be a significant undertaking with time and funding being major issues. We believe that incorporating vegetation management into the IMPs, integrated management plans, would be very appropriate but only if there are reasonable expectations for landowners and state agencies due to the limited financial resources that would be available for this effort. My next statement I want to preface it with, I haven't had a chance to look at the amendment, but if I understood Senator Carlson right, it related mostly to task force language in there, so but as far as the lines, numbers changing and so on, I wanted to make that clear. We feel that there is a need for some clarification in the bill. In line 15, the term, just "vegetation" is used and we feel that may be a little bit too broad in some cases. And why would this be problematic? It would be because having it just say vegetation would include native vegetation as well, and a lot of native vegetation...there's a lot of beneficial aspects to that. So we would like to see that changed. So our recommendation would be to try to narrow that and amend the bill as follows, assuming the line numbers are the same as they were in the original. On page 2, line 8, after the word, "remove," you could insert, nonnative invasive in that line and then on line 14, after that period, strike the rest of the line through 17. That last point being basically striking the last sentence of that. Okay. Having said that though, and listening to the other parts of the testimony, for practical reasons, I guess if the term vegetation stays in there as is and then it doesn't say, nonnative invasive in every part of it, I believe there should be probably, a contingency statement written in there to the effect of, areas of native vegetation as approved in a management plan, something of the sort. I assume there will be a management plan that would come out of the IMP that would address certain river reaches and so on. My point here being that if there is a reach with some dog hair stands of cottonwood and willow that could be treated at the same time that all the nonnative species are being treated, the ones that have been referenced throughout the afternoon, the salt cedar, phragmites, loosestrife and so on, if there is some room for that. But we just wanted to point out that caveat in there that if we stick to the nonnative invasive species, then we won't have the potential to impact the beneficial native species. And with that I would open it up for any questions. [LB458]

SENATOR LOUDEN: Any questions for Frank? Senator Carlson. [LB458]

SENATOR CARLSON: Senator Louden. Frank, normally we're asking questions but since it's my bill, the initial focus is on streambed, even though we've got a little room in there, and I feel there is a big difference between looking at vegetation in a streambed versus vegetation away from the bed, and I'll address that a little bit further in my closing. [LB458]

FRANK ALBRECHT: Okay. That's a good point. Would you like me to respond...could I respond to that, Senator? [LB458]

SENATOR CARLSON: Yes. [LB458]

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FRANK ALBRECHT: Okay. I understand what you are staying within the high banks there and generally you're not referring to the riparian areas adjacent to that. The point that I'm trying to make is that removing every bit of vegetation, you know, the sedges and rushes and so on, isn't necessarily a good thing so we need to kind of pull that in a little bit so that there's not large reaches that are stripped of every bit of vegetation within the high banks there. And I think that can be done with some statements in a management plan as long as we are not painting it too broadly, so I think it can be addressed. [LB458]

SENATOR CARLSON: Thank you. [LB458]

FRANK ALBRECHT: Yep. You're welcome. [LB458]

SENATOR LOUDEN: Senator Dubas. [LB458]

SENATOR DUBAS: Thank you, Senator Louden. Thank you for your information. I would assume that Game and Parks would want to be involved in any of these IMPs and their input. What would you see as Game and Parks' contribution financially? What would you be able to do? [LB458]

FRANK ALBRECHT: Financially I am not going to be able to speak to that very precisely. Yes, we would like to be involved, we already are involved in aspects of some of the IMPs, contributing as much as we can to that. Financially, we are in the same boat as a lot of the other agencies, very strapped, pretty tight. I will not be able to give any kind of a solid number on what part of a financial contribution at this time. [LB458]

SENATOR DUBAS: Thank you. [LB458]

SENATOR LOUDEN: Questions for Frank? I have one. Are there any wildlife management areas or park areas in this Republican River reaches any of it, that Game and Parks owns, or is operating? [LB458]

FRANK ALBRECHT: Yes. We have areas in the Republican and on the Platte River reaches that would be affected by this bill. [LB458]

SENATOR LOUDEN: Okay. What are you doing to control these invasive species on those areas that the Game and Parks now owns or controls? [LB458]

FRANK ALBRECHT: Okay. I've talked to some of our management section staff regarding that and yeah, there are efforts underway to control that. How much money has been spent on that on our areas, I don't have that answer right now but it's been going on for... [LB458]

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SENATOR LOUDEN: I want to know whether or not you have people that are doing something about it... [LB458]

FRANK ALBRECHT: Yes. [LB458]

SENATOR LOUDEN: ...because I have, in my district, this is where I have problems with the Game and Parks spraying their noxious weeds, even not necessarily on waterways, but just somewhere. And that's what I'm wondering, what Game and Parks is doing in these...if we are going to work in these watersheds in these basin areas, we need Game and Parks to take care of their land, really first...before everybody else comes in. I'm wondering if they got a plan in place to do that? [LB458]

FRANK ALBRECHT: I understand your point, Senator. Yes, we are focusing primarily on the main ones that have been mentioned, the highly invasive nonnatives, the phragmites, and the salt cedar and so on...mechanical and chemical control underway. Do we have everything taken care of? No. But efforts are going to continue, we believe, and we need to be on the cutting edge of that as well, so we will continue it. [LB458]

SENATOR LOUDEN: Okay. Thank you. Other questions for Frank? Seeing none, thank you. [LB458]

FRANK ALBRECHT: Thank you, Senator. [LB458]

SENATOR LOUDEN: Is this the last testifier in favor in this bill since...okay, somebody sitting in the on-deck chair? If that gets empty for very long, we are going to go to the next stage. (Laughter) Go ahead, sir. [LB458]

GALE LUSH: Okay. Thank you, Mr. Chairman, Senators, good afternoon. My name is Gale Lush, G-a-l-e L-u-s-h. I'm here to represent the Nebraska Farmers Union in support of LB458. We haven't seen the amendments but I believe the concept would be in line with the general bill. The Farmers Union feels LB458 is a proactive measure that the state can take now to stop the incursion of nonnative invasive species in our various river systems and it will help the state in meeting its compliance requirement in both the Republican and the Platte River. And I am sure that there will other river systems that also need help. As a farmer...I am a farmer in the Republican River Basin from Wilcox, Nebraska. I feel taking care of our rivers is just like taking care of our streets and highways. Whether we are filling potholes in Omaha or fixing the Interstate, it's just part of the maintenance we have to do and frankly, I feel that this maintenance is very good for the economy. I like to clip things out of the paper. I clipped an article that was written recently in the Omaha World-Herald. It was an article about the Federal Reserve Bank of Kansas City, Missouri, and this district is made up of Kansas, Oklahoma, Colorado, Wyoming, parts of Missouri, and New Mexico. And basically what the article said was,

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Nebraska led six other states in farm income growth in late 2006, according to a federal reserve survey. And in quotations, the person that was talking in this article said, the reason, according to Jason Henderson, an economist and executive in charge of the bank's Omaha branch, is the increasing demand for corn-based ethanol. It's really got a dramatic impact in Nebraska, Henderson said. States with less corn production such as Oklahoma, haven't benefitted. There's wide variation within our district. Quite frankly, I think it's very proactive to take care of these rivers so that we grow corn that can be made into ethanol rather than salt cedar which takes up to 200 gallons per day. And quite frankly, I realize the senators are having a real problem, there's all this extra money, and I believe a lot of it's because of corn-based ethanol production in the state of Nebraska, whether it's from taxes driven from construction of ethanol plants, billions of dollars of those, or the profits driven from ethanol to either farmer-based investors, or even cooperative-based investments in alcohol. So I guess as far...I think personally, and I'm speaking personally now, not for the Farmers Union, that the state should maintain its riverways just as it does its highways and since we are all part of the state of Nebraska, and when we fix a piece of the Interstate, we all chip in, I think fixing the Republican River and the Platte River is just part of the state, just the cost of being a Nebraskan. And frankly, a lot of the extra money that the state of Nebraska has today and I don't think it will last, is probably driven from corn-based ethanol production, so. Thank you, that's the end of my remarks, and as I said before, the Nebraska Farmers Union does support LB458. [LB458]

SENATOR LOUDEN: Questions for Gale? Seeing none, thank you for testifying, Gale. At this time we have the last testifier for proponents in this room. If there is anyone in Room 1023 that would wish to testify as a proponent for LB458, they should come to the meeting room, 1525, at this time. Thank you. Go ahead. [LB458]

MIKE DELKA: Mr. Chairman, committee members, my name is Mike Delka, D-e-l-k-a. I'm the manager of the Bostwick Irrigation District in Nebraska. We try to irrigate 22,935 acres in the eastern end of the Republican Basin and it's the position of our board that we are in favor of anything that would enhance the water supply to the basin. And I will leave it at that. [LB458]

SENATOR LOUDEN: Okay. Any questions for Mike? Seeing none, thank you, Mike, for testifying. I guess the sergeant at arms...has anyone showed up from the other room that wishes to testify? Okay, then we will take opponents for LB458 at this time. Anyone wishing to testify in opposition to LB458? Seeing none, we'll take testimony now for neutral testimony for LB458. [LB458]

ANN BLEED: Thank you, Senator Louden. My name is Ann Bleed, A-n-n B-l-e-e-d, and I am testifying in a neutral capacity as the director of the Department of Natural Resources. First I want to thank Senator Carlson for bringing forth this amendment to the bill. DNR is in strong agreement with the importance that you are placing on

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managing vegetation in the basin of our state and we believe this is extremely important. It is also a very complex topic. The proper management of vegetation in our streams involves understanding the hydraulics and geomorphology of rivers as well as plant and animal ecology. And therefore, I think the development of a task force that would be responsible for looking into these issues and coordinating the efforts would be extremely helpful. We also agree with the initial priority in the amendment that focuses on fully or overappropriated basins. Vegetation in the streams of Nebraska has increased significantly during the drought as well as over time. And this new growth is now causing problems in clogging our streams, reducing the conveyance of surface water down the stream, and also increasing the chance of flooding even with what would otherwise be normal flows. Let me give you an example. Since the drought, so much vegetation has grown up in the Republican River below Harlan County Dam, that when we released water last year from the dam to get to Kansas, only about 50 percent of the water got to Kansas. Normally we would have expected about 90 percent of the water to get there, so that's a significant difference. And we have similar problems in other parts of the state as you've heard. On the North Platte River, there is a nickname called the choke point which refers to North Platte, Nebraska, because of the infestation of phragmites at that point in the river which is affecting our ability to comply with the Platte River recovering and implementation program. Speaking of the Republican, I would like to take this opportunity to echo what you've already heard from some of the natural resources districts. The DNR, and the natural resources districts are working very hard to come up with a plan for the Republican Basin that will achieve compact compliance. Because there's a lot at stake for everybody involved, I've got to tell you, these negotiations are not easy. However, since December, when the Governor spoke to the folks in the basin, we have made significant progress and I am very optimistic that we will be able to develop appropriate integrated management plans for the basin in the near future. I do want to emphasize that before any plan is implemented, the plan will have to go through the regular public hearing process and stakeholders will be involved in developing and reacting to that plan. In 2006, irrigators in the basin did a tremendous job of reducing their pumping. They used less than their allocation as you've heard in the past testimony. And we are hoping and asking for them to do that again this year. As has been previously promised, we will not ask them to lower their allocations in the basin for 2007. However, it is DNR's view that in the future we will have to have reduced allocations in the basin if we're going to achieve compliance with the compact and with LB962. To successfully implement the plan that we are talking about in the basin, we must obtain additional funding. To help raise these funds, the NRDs are requesting statutory authority to extend or increase the current tax levy and/or assess fees on water use. As you all, I'm sure, know, the Governor is not exactly interested in taking property taxes in this direction. However, if this solution is something that is endorsed by local public officials, he will definitely listen to whatever they have to suggest. The NRDs are also requesting that the state appropriate funds to match local funds. The Governor is supportive of using state funds as part of the solution in the Republican Basin, however, the match rate itself is up for discussion. In sum, although we still have

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important issues to resolve, I am very optimistic that the NRDs and DNR working together will develop management plans for the basin that will allow the basin and the state to not only comply with the Republican River Compact, but also with the requirements of LB962. If there are any questions, I would be glad to try to answer them. [LB458]

SENATOR LOUDEN: Questions for Ann? Senator Carlson...Christensen, I'll get that straight. (Laugh) [LB458]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. Ann, you said that about 40 percent of the water was lost and normally 90 makes it, and what did that cost us? And couldn't the state afford for what that cost to be working on that vegetation now? [LB458]

ANN BLEED: I would like very much for the state to be working on that vegetation now, and in fact, it would be wonderful if we could get some funding from the Legislature as soon as possible so we could get into the river as soon as possible, hopefully, sometime this summer, to start working on vegetation removal in the channel. [LB458]

SENATOR CHRISTENSEN: But about how much would that have cost us last year off of the 40 percent loss in water, what we paid, that could be substantial, wouldn't it? [LB458]

ANN BLEED: It could be substantial, absolutely. [LB458]

SENATOR LOUDEN: Other questions? Senator Carlson. Senator Christensen? (Laughter) [LB458]

SENATOR CARLSON: Senator Louden. Director Bleed. I simply want to thank you for your interest in addressing the effect of vegetation and I appreciate the testimony because it kind of hurts to tell what happened last year when we released water, we want it to get someplace and it doesn't get there... [LB458]

ANN BLEED: That's right. [LB458]

SENATOR CARLSON: ...and so I appreciate your interest and we do need to get something done, thank you. [LB458]

SENATOR LOUDEN: Other questions for Director Bleed? Seeing none, thank you for testifying, Ann. [LB458]

ANN BLEED: Thank you very much. [LB458]

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SENATOR LOUDEN: Next one in the neutral? Testifying in neutral? Anyone wishing to testify in the neutral? Seeing none, then I guess that closes the hearing on LB458, and Senator Carlson will close. [LB458]

SENATOR CARLSON: Senator Louden and members of the committee, I've learned in my short time in the Legislature it's speak or forever hold your peace, and that's what I will do here in closing. I appreciate the testimony of each one that's been a part of this today and all the interest that's been shown. I'd like to clarify a couple of things, again indicating that the focus of LB458 is on the streambed, and that we estimate there's approximately 300 miles of streambed in the Republican River from the Colorado border to the Kansas line. If we focus on the streambed, we had to estimate how many acres does that involve? And I used a figure, a square acre is 208 feet on its side. So if we take the middle of the streambed and 104 feet either direction, we have the width of an acre. If you multiple that by 300 miles, there's 21 acres then in a mile that way. And multiply that by 300, that would come up with about 7,500 acres of streambed. I think that's reasonably close; it may be more than that because there are places that it's wider than that. If we look at a figure of approximately \$200 an acre to take care of the vegetation, that would be \$1.5 million, and so the bill has requested \$2 million in the event that that figure is not quite accurate in terms of number of acres. We know that consumptive use of trees and invasive vegetation has been reported in various degrees. We know...I understand that if we take vegetation out, something else replaces it, but the testimony that we've heard concerning the ranch and taking out the trees and replacing it with grass that could be grazed, that might be vegetation that takes in the area of 20 inches of consumptive use. And there are tables that would indicate the other vegetation can move up, that can go up to 50 to 60 inches and the savings on that, then the difference is significant. It could easily be more than one acre-foot per acre of land, depending on what the requirement was of the vegetation that went out and the vegetation that replaces it. We do have herbicides that are accepted as friendly to fish and wildlife and we are concerned about that and those are the kind that should be used. God created the rivers; he never meant for vegetation to be in the streambed. We've done that through attempts at flood control and we need to fix it. There's a cost to doing this; there's a great cost in doing nothing. And whether it's \$2 million a year for the next two years to see what kind of results that we can get, that's a far cry from the possibility of much greater than that if we don't comply with the compact. When we know something to do is good and then don't do it, it's evil. And when the house is burning, we don't set up a study group to see if water is more effective or foam for putting out the fire. We use what works, what's available, and we go to work; we take action. I ask that you take action on LB458 and vote it out of committee and I appreciate your time and consideration. Thank you. [LB458]

SENATOR LOUDEN: Thank you, Senator Carlson. With that, we will close the hearing and we'll take about a seven minute break. That will put us back here at twenty minutes to four. That will give us time to reshuffle the room and move around a little bit. [LB458]

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BREAK [LB458]

SENATOR LOUDEN: Okay, anyway, in case the microphone wasn't working there are some available seats in the hearing room for those that are down in the overflow room in 1023. We'll start the hearing now on LB701. With that, Senator Mark Christensen will give his presentation. [LB701]

SENATOR CHRISTENSEN: (Exhibit 13) Thank you, Chairman Louden and fellow senators. I am going to take just a minute to update everybody. Many of you know my daughter had a wreck last night. They are flying her down here now to Lincoln. They found additional problems in the vertebrae and fragmentation so just to update you, they are flying her down here now, so I don't know if I'll be here at closing or not, but I will get this opened up. Just wanted to update everybody where that's at. I want to thank everybody for coming today. I know a lot of you have traveled great distances and have a long way to go home yet. I just want to explain a little bit about what we're trying to do here with this legislation. You know we have many problems in the basin meeting the compliance issue. You know you heard director Ann Bleed about we're working together, the NRDs are working close together. But our ultimate goal is to protect us from being shut up by a judge and not getting something accomplished that needs to be done to meet this compliance in the compact. And I'll be the first to say that it's not an easy issue, there's not any perfect solutions. But when I got in the race to become a senator, you know, I run on water and issues to try to bring some responsibility through the agencies and the state working together to find a solution. Many of you know I've just recently changed my bill. Monday and Tuesday probably got on the Internet if you got a recent copy, I have addressed several issues that seemed to be disliked by a lot of people. The NRDs across the state didn't like the transfers, the Republican River Basin didn't like the basinwide committee. And no one liked the huge property tax increase in there. And as you've all heard, my urban friends don't necessarily want to fund the project. So it's going to take cooperation, working together and I just ask you to think about, as I was willing to address parts in the bill, I'm willing to add parts back if there's parts that are needed. I'm willing to listen to what other people have to say about this bill. I just ask you as you are talking about problems that you see, let's bring forth solutions. We're all in this together and we all got to have a positive mind working together to succeed in here. What this bill does is requires the elimination of any overages that occur in years after it is reported, doing this by reduction of groundwater pumping from 65 to 70 percent of what is required, surface water diversions, only allowing them to get 75 percent of what's available and by the state looking at additional items to meet compliance. Whether it be the vegetation that Senator Carlson's bill dealt with or it be land retirement as we've looked at in the past, it's going to take a cooperative group. There's many good things about this bill. I know when you first look at water-short allocation maybe I should just step back and say the first...this bill allows you to freeze the allocation at 2006-2007 levels except for water-short years, giving us a

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plan that is kind of two-tiered to address the shortness but opened up some freedoms that wasn't allowed in all basins. That is the ability to move water between ground that you own, the ability to purchase water from a neighbor, willing seller-willing buyer, but not to move it closer. You have to buy close to stream and move away. Why? Because we can't affect the timing that would short the streams that cause further compliance problems. Even though I don't even like some of these suggestions and as a lot of us didn't like water meters, we didn't like original IMPs, we've learned to manage around them; we have learned to work together. I believe this is a group that will work together again to find the best solutions. This bill allows participation in programs that will reduce consumptive use and increase water supplies that benefits individuals and the state. This gives the maximum local independent control when farmers can move their own water around. They can look at doing vegetation management to increase their own allocations when they can look at doing things on a personal level, the NRD level, as well as the state level. It's putting all three groups working together. Why is this good? It's going to keep us in compliance as a state. This approach here requires no taxes. You've heard many NRDs say they would like to be able to supplement a plan. That's something that can be worked on. That's something if they'll bring forth and talk to us as a committee that can be done also. That's the advantage right here being a public hearing. The Unicameral is unique about this, every bill gets a hearing that has public input. So everybody can step up here. You may not like something in my bill, but you can offer something that's better. Everything may not be exactly what you want but we can all work together to make it better. You know only those that need more water will have to pay for more water. That's the advantage of willing buyer-willing seller. It leaves the DNR and NRDs with the authorities that they need. During control years only the allocation is set equally across the basin according to the gross water irrigation need. You know, and this budget I've proposed so far lives within the Governor's budget. This takes into account all the causes of stream flow depletions whether it be conservation, vegetation, groundwater pumping, or surface water. I ask you to think about it. It's always easy to disagree with something; it's harder to bring forth the solution. That's why through this process...of the original LB701, I met with the NRDs, I met with surface irrigation, I met with water lobbyists, I met with senators and said, my door is open, let's visit, let's make something that's good for Nebraska. Let's meet the compliance and let's take this challenge head on. I'd be willing to address any questions. [LB701]

SENATOR LOUDEN: Thank you, Mark. I certainly want to add my condolences and the committee's condolences and we hope your daughter turns out quite well for you. Questions for Senator Carlson...oh, Christensen. (Laughter) And it's only four o'clock and it's a long day. [LB701]

SENATOR CHRISTENSEN: It's hard when you get started...that wrong, and it stays. [LB701]

SENATOR LOUDEN: Senator Wallman. I can get that straight. (Laughter) [LB701]

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SENATOR WALLMAN: Thank you, Senator Christensen for bringing this. I agree with you and it's nice to have all these people in here about concerns and I too wish the best for your daughter. I've went through an accident myself so I know it's pretty traumatic. And it's pretty nice to see the hearing rooms packed, concerns, and hopefully we can work something out this year and I think we should, you know? Hold us to it. And I'm proud to see farmers in here; I'm a farmer myself, so, thanks, Mark. Tom? [LB701]

SENATOR LOUDEN: Other questions for Senator Christensen? Senator Hudkins. [LB701]

SENATOR HUDKINS: Thank you. Senator Christensen, we have heard a lot about the Republican River Basin and how that there just isn't enough water for Kansas. I received the last few days and I wouldn't be surprised if every senator received the last few days, a series of pictures on where did all of water go? And there were some aerial shots of places in Kansas that after a rain or after a snow, I couldn't tell, but the terraces were full of water, the ponds were full. We have done what the federal government said that we should do in building ponds, building stock ponds, building terraces, planting along a streambed so we don't have the runoff, so we have done all of that. And now are we being penalized because now we don't have the runoff into the river. A two-part question; and if we don't implement this bill or some type of this bill, what happens? [LB701]

SENATOR CHRISTENSEN: Okay, thank you. Yes, and we'll be showing some of those exact pictures. We had them on charts here but I'm going to let Steve take that part of it. Conservation has caused a lot of the reduction of flows. And I've often given this example, I hate to take a lot of time, but you know, there's a registered-looking reservoir south of my dad's house, holds 235 acre-feet of water that ran over every year in the '40s and '50s and '60s, and in the '70s it slowed down a little bit, '80s it dropped a lot, '90s dropped drastically, and in 2000s it never ran over until last week. This...but quickly what happened in those years...in the '70s we were putting in terraces, farm ponds. In the '80s we went to eco fallow, we were growing two crops out of three instead of one out of two, and now in the 2000s we went to continuous farming being wheat, corn, wheat corn, never working the ground. Holding the water on the ground, turning it into beneficial use of a crop, held back by terraces, held back by grass. Also in the '90s CRP came in, additional grass, less ground, running. That's the scenario that we've operated in plus we've run through a drought. And if you look at...I was just floored when I called my dad and said, how well is the dam filling up? He said, started running over this morning. I believe that was about last Thursday. You know? It filled that fast. Just by getting a return to good moisture like we're seeing now. The Republican River Basin has always been a runoff river. And we have reduced some of that by our farming practices, by our conservation as you mentioned, by allowing vegetation. Senator Carlson dealt along the streams. This has caused a lot of that too. What was your

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second question? [LB701]

SENATOR HUDKINS: What happens if we don't do something? [LB701]

SENATOR CHRISTENSEN: Okay. If we do nothing...this is my opinion, is we will stay out of compliance, then a judge will shut us off. And then we're at the mercy of a judge saying or thinking well, I think you've done a good job, I'm going to let you continue being out of compliance. Or is he going to say, I don't think you've done everything that you could have and I'm going to shut everything off. He might choose to just shut off the quick response, he may choose to shut off the whole basin. That would have disastrous effects to our economies, to our land values. Can you imagine if there was no irrigated land values in our school districts? For about four or five years everything had to revert to dryland? I'd just like to have you think about what would it do to your school? I can tell you, it will shut it down. It'll shut your county offices. It would be a disaster. We do have to address this problem. [LB701]

SENATOR LOUDEN: Are there other questions for Senator Christensen? Senator Dubas. [LB701]

SENATOR DUBAS: Thank you, Senator Louden. Thank you, Senator Christensen. Forgive me if you gave this answer in your opening, I was a little bit late getting back here, but how did you come up with the allocations for the different areas? [LB701]

SENATOR CHRISTENSEN: Okay. The allocations in the normal year are based off of what they've had in the last IMPs. In a water-short year, it takes a gross irrigation chart that has been distributed by DNR, and then you can see that in that book I've handed out here. And then what I did was adjusted that to county boundaries. And then I took between 60 to 70 percent of what the gross irrigation need is for 50 to 60 percent, maybe it was, and assessed that to be the value. I tried to round to the nearest inch. I got one of them at a half there, you know? That could get to a very even one but you are going to have to go to maybe it's 8.6 and 7.1 and things that way. But wherever, I've tried to stay to a pretty even number but that goes off the gross irrigation requirements from DNR. [LB701]

SENATOR DUBAS: Thank you. [LB701]

SENATOR LOUDEN: Other questions for Senator Christensen? Seeing none, Mark, we'll wait and see whether or not you decide to close. [LB701]

SENATOR CHRISTENSEN: Okay, thanks. [LB701]

SENATOR LOUDEN: I believe that's your prerogative. Next? I presume you're his special witness and okay we'll give you ten minutes then Steve and that's what you

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need? [LB701]

STEVE SMITH: That will be fine. Thank you very much. Senator Louden, Senators on the committee, I appreciate your time. My name is Steve Smith, that's S-t-e-v-e S-m-i-t-h. I am the director of WaterClaim which is a nonprofit organization dedicated to researching water and providing water ideas and solutions. There are 13 watersheds in Nebraska. Two of them have some serious challenges and one has a serious crisis. We have a 2007 deadline by which we must comply with. We had a chart made up for you. I put that up there so everyone can see it. You will also see that same chart on page 28 of your book. What that chart shows...the blue area is the allocation. That's the amount of water that Nebraska is allowed to have and use on an annual basis. The red line is the consumptive use. That's what Nebraska is charged with using on an annual basis. There's been a lot of people who have said that groundwater users have overdeveloped, who have exploited the system. But I'd like to have you notice that the red line has gone down. That means the consumptive use has been going down over the last several years. Much of that is surface water reductions because there hasn't been any water. But it is also because groundwater usage has also gone down. That red line is like a freight train. You slam on the breaks and it take a long time before it has a result. Ninety-three to 94 percent of that red line comes from prior year pumping. So when my father was pumping 30 or 40 years ago, it still has an effect on the stream today. So if I turn off my well today I won't have a benefit immediately. That benefit will be strung out over a number of years. I guess what I'd like you to notice as you look at that chart that what we are required to do as a state is either pull the red line down below the blue or raise the blue area above the red. Either one of those are acceptable options. Anytime the red line is above the blue, Nebraska is out of compliance. And the Supreme Court of the United States says you must change that on a five-year average. And if Harlan County Reservoir is low you must do it on a two- or three-year average. The original green bill that you have looked at over the last several weeks said that the best way to do that is to have a group called the Basin Administration Committee across the district, decide the best way to accomplish that--by either raising the blue line or lowering the red line further. However, the current version of this bill says maybe the best way to do that is to allow a requirement of all irrigators, both groundwater and surface irrigators, to make significant painful reductions. And that's also on the map there that's a...in your booklet here. I'd be happy to explain in more detail how that worked. So we asked irrigators, both groundwater and surface water irrigators, to make significant, painful reductions, ones which none of us like. In exchange, we are asking the state of Nebraska to make up the difference for the things that we cannot control. What the current version of LB701 does is takes a look at the causes of depletion. And Dan, if you wouldn't mind, would you bring up that chart, the one that you have referenced there, Senator Hudkins? Conservation has a major impact on stream flows. According to Roger Patterson and you'll find his references there in your booklet as well, has indicated that over 50 percent of the depletions to the stream are caused by conservation. I think it's just behind that map there, Dan. That is in page 31 of your

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folder. That's where Roger Patterson makes the quote, it's about half way down, it's highlighted I think in some of the versions we gave out. Those of you who just received a copy, we did not have time to highlight it. There's also included in your booklet what we call the Koelliker study. It's a study done by Kansas State University who went in and took a look at how much the effects of conservation is on the streams. And as you can take a look at from the posters and the charts and the pictures that you have, in your booklets there's additional pictures that are not here, on the wall. All of those light colored lines there are water. These pictures were taken in Kansas by Jim and Chris Thom. They flew over the area. In fact I think they gave Ann Bleed a tour yesterday in their airplane to show. And from what I understand and I have not done it myself, but as you fly over the area, the effects of conservation are dramatic, very visible. But what I'd like to emphasize is what you see here in these pictures is nothing compared to the invisible effects of conservation. As we do minimum till, as we do no-till farming, we capture more water on the field; it's a wonderful thing. And I would like to emphasize, we do not want to remove conservation, there is no request to do so. The terraces are good. The minimum tillage and the conservation affects that we do are wonderful things. They help protect us from flooding. They protect our water quality. They protect our water quantity. They help us with our fields. They are very, very good things. But it's just like fire. Used properly, fire is a good thing. But sometimes fire has a bad effect as well when it's gone out of control. I encourage you as you take a look at...what we are asking the farmers to do as irrigators, both groundwater and surface irrigators, to make significant, painful cuts. But we are asking the state of Nebraska to pick up the responsibility for the things which are beyond the control of any one individual, those things meaning such as conservation. We don't want to remove them but we have to make up for them and compensate for them. So what this bill does is ask groundwater irrigators to make a reduction of approximately 30 to 45 percent of what they need to make a good crop. We ask surface irrigators to sacrifice 25 percent of the available water and I can guarantee you that both of those requests is causing me to wear a Kevlar and asbestos jacket right now because there's a lot of people who do not like that; it's a painful sacrifice. And they believe this is a problem caused by the state and they don't appreciate the idea that they should be asked to make painful cuts. But we are doing it because what we ask in exchange is that the state of Nebraska step in and pick up what we as individuals cannot do. There are three escape routes for irrigator. Number one, they can move water from one field to another which is something the Upper Republican and Middle Republican currently allows; the Lower Republican does not. That's an easy thing. The second thing that we can do is that we can purchase water from each other, so as long as the total allowance does not go up, I can buy water from you or sell water to you as long as the water moves away from the stream. So for example, if Senator Carlson is closer from the stream I may come to him and I may purchase water from him if he agrees to sell it to me. Willing buyer-willing seller. If he doesn't want to sell to me, I can't buy. But that would be a second way that I would be allowed to increase my allocation. The third way that I could increase my allocation is that I would be able to participate in government programs which are, excuse me, not

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government programs but programs which are designed to reduce consumptive use on behalf of and for the benefit of, the state of Nebraska. So for example if I wanted to go out and I wanted to chop down a bunch of trees as Senator Carlson's bill does and I say, I want to do even more. Maybe I've got 20 acres of trees on my property and I'd like to thin those out and reduce the amount of water that they use. I would go to the DNR, ask them to review that benefit, they would assign a benefit. Maybe they assign it five acre-feet. I would then be able to take that five acre-feet and use it on my field to increase my usage or I could sell it to my neighbor who thought it was more valuable to him. So even though we make these painful reductions, there are ways for irrigators to go ahead and increase their usage as they must. Some of them will choose to live with these allocations. They will say, I can do that, and that's a good thing. That's a wonderful thing for the state and for everyone else and the state benefits from that. Why is this bill good? It's good because it keeps the state of Nebraska in compliance. Compliance is required. If we go over, as soon as we find out that we've gone over, we must eliminate that in the following year. There are no tax requirements and I can tell you nobody likes to be taxed and this eliminates the requirements for those. Only those that need more water pay for the fee to do so. It leaves the DNR and NRDs with the authority they currently have. And during a control year only the allocation is set across the basin based on people's needs, so 75 percent or 70 percent of what they actually need according to the DNR. The budget is within the budget set by the Governor. Two point seven million dollars we believe is sufficient. There are two primary concerns that people have about this new idea. Those primary concerns are, they don't like the idea of the Legislature setting allocations. They believe that should be local control and I agree it should be local control. And if I am an NRD I do not appreciate the state legislature coming in and doing that for me. But I don't know of any other way to demonstrate to the Legislature that we've...are willing to make significant sacrifices in order to protect our overall benefit. In other words, we are willing to lose an arm in order to save our life. Now if the Legislature will trust us to make those reductions without legislating it we'd be happy to do that and promise you that we will. But that's why it's here. Maybe there's a better way other than the Legislature setting the allocations and if there is we'd be happy to find a way to do that. The second concern and it's a very legitimate concern, is by asking surface irrigators to give up 25 percent of their water, we are asking them to give up a piece of property that they own and they do. According to Nebraska's Constitution, once we've given an allocation to someone it becomes a piece of property that they have a right to continue. And we are asking them to sacrifice that 25 percent involuntarily. Based on all of the research that we have done, my discussions with the state's attorney, it is our belief that when you have to comply with the compact, it is legal and permissible to do that but that will be up to you to discuss with the Attorney General to get his opinion on it and make your own decision. It is within the prerogative of this committee to say, we believe that we should compensate those people as we remove part of their rights. And if that's what we do it causes an increase in the cost of this bill, but it could very well be the correct thing to do. But either way, it is legal in my opinion.

[LB701]

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SENATOR LOUDEN: Questions for Steve? Senator Hudkins. [LB701]

SENATOR HUDKINS: Thank you. Mr. Smith, were you about to make another point and got cut off? [LB701]

STEVE SMITH: I was actually going to summarize what I said but I'm sure you have a very good memory and I don't need to do that. (Laughter) [LB701]

SENATOR HUDKINS: Thank you. You have given us a lot of information. Going to the surface water irrigators though, I got lost in the middle somewhere. So if you have surface water rights and you have been told by your local NRD, this only affects the Republican River Basin? [LB701]

STEVE SMITH: This bill addresses the Republican River Basin only. [LB701]

SENATOR HUDKINS: Yeah. So those irrigators then, what compensation perhaps could they get for having to give up part of that property as you call it... [LB701]

STEVE SMITH: Right. Just to be clear, the groundwater irrigator which is regulated by the NRDs, makes a reduction in allocation but gets no compensation for doing so. [LB701]

SENATOR HUDKINS: Right. [LB701]

STEVE SMITH: The surface water irrigator is regulated by the Department of Natural Resources. The NRDs have no authority over surface irrigation. If this legislation were to pass as written, there would be a request by the surface irrigators, not a request, but an order to sacrifice 25 percent of the available water. So if there's 10,000 acre-feet of water in a reservoir that could be delivered to the field, 2,500 acre-feet would run down the stream and the other 7,500 acre-feet would be available for distribution on the field. This bill does not provide compensation for that loss of 2,500 acre-feet. If the Legislature sees that wise and prudent to provide compensation you can and should. If the Legislature decides not to it is my belief that it legally doesn't have to. [LB701]

SENATOR HUDKINS: So then those surface water irrigators who are being taxed and they are, as irrigators, then if they would have to revert to dryland, could they go back to their local assessor and say, I have been deprived of this water. Now I am a dryland farmer and my taxes should be lowered accordingly? [LB701]

STEVE SMITH: I don't think that will happen and here's why. The bill also has a provision that there is always a minimum amount of water for the surface irrigator that cannot be taken. So once we drop below 4 inches, then the irrigator either then gets all

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of it or he gets compensated at 100 percent of that loss if it is taken. Secondly, many of the surface areas, not all, by my estimate approximately half, have both groundwater and surface irrigation water. Those individuals that have that would be in a wonderful position that they would still be able to use their groundwater use. Those which only have surface irrigation are currently having a great sacrifice. Many of them have lost their water for a variety of reasons. Conservation is part of it. The drought is a part of it. Groundwater pumping is a part of it, and vegetation is a part of it. And those individuals have sacrificed a great deal and they are being asked yet to make another 25 percent reduction. And many of them consider that to be totally unacceptable and I understand. But if we do not have an allowance on how much water each group can use then it's impossible to budget, it's impossible to comply, and it's impossible to do what we have to do. [LB701]

SENATOR HUDKINS: Thank you. [LB701]

SENATOR LOUDEN: Are there other questions? Senator Dubas. [LB701]

SENATOR DUBAS: Thank you, Senator Louden. Thank you, Mr. Smith. You made a comment that you thought there would be some producers who would be able to live within their allocation. Would you have any idea how many you think could actually do their job and live within the allocation of water? [LB701]

STEVE SMITH: Thank you, Senator Dubas. For example those farmers which may not have an irrigation well that can produce as well as another guy's irrigation well, are currently living with less. So for example, the residents of Dundy County which is in the extreme southwest corner of Nebraska, many of their wells are simply not capable of producing as much. As a result they have a lower land value because they are not able to pump their full allocation. Those individuals receive less corn yield as a typical result. That means that they don't do it by choice, but they do. There are some people who are very efficient with their operations. They have mastered everything...maybe they happened to be fortunate and they lived in the right spot where it rained this year. And so some people would be able to successfully live with that; some people will not. In fact my farm would not. Let me give you one other way of doing it. My farm for example, two years ago, survived with a 9-inch allocation even though I live in the Upper Republican. That's how much water was distributed on my field. The reason I was able to live with that low amount of water is because we had a crop rotation. We had some dry beans, we had some potatoes, we had some corn, etcetera. Some of those crops use much less water. The problem is that's not an option for most people. The Farm Bill, the way the federal program works, you cannot do that. And some people can and some cannot. And it's not because of management necessarily, it's because of the way our system has chosen to work. [LB701]

SENATOR DUBAS: Thank you. [LB701]

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SENATOR LOUDEN: Other questions for Steve? Senator Fischer. [LB701]

SENATOR FISCHER: Thank you, Senator Louden. Thank you, Mr. Smith, for being here. Did I understand you correctly when you said surface water users would be required to cut back 25 percent with no compensation? [LB701]

STEVE SMITH: That is correct. [LB701]

SENATOR FISCHER: How can you...do you believe the Legislature can make a blanket requirement to cut all surface waters 25 percent in the basin when their rights are different than groundwater users' rights? The surface water, it goes by, you know, first-in-time. So you're saying the person that has the oldest right is going to be cut back 25 percent to the person who filed a right a week ago? And do you believe that's legal? [LB701]

STEVE SMITH: Senator Fischer, thank you for the question. Yes and no to your question (laugh). Here's the no part. The no part is it is a first-in-time system. Therefore, if there is insufficient water to distribute to all users, those which have the junior rights, lose those rights. And so if there was a 25 percent reduction and that caused a reduction, there would be a 25 percent--or some of those individuals have no water while the others still receive their full amount--that would be the way that system works. However, in practicality the surface irrigation districts have chosen to treat the entire ditch usually as one right with an equal date. So therefore all of them are treated the same. Now there may be differences from ditch to ditch. Secondly, the yes part is I do believe the Legislature has the authority to do that when it is referencing an interstate compact compliance and it is based upon what is called the Hinderliter case out of Colorado and New Mexico. But I am sure you don't want to hear about all the legalese about that and I would defer that to Dave Cookson or Jon Bruning as you decide to talk with them and ask them. I am definitely not an attorney and I can guarantee you that their answers will be much better than mine. [LB701]

SENATOR FISCHER: Thank you. [LB701]

SENATOR LOUDEN: Are there other questions? Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden and Steve. I'm really not going to ask you a question here. I guess I'm going to take the prerogative that I have of making a statement, and I indicated to Senator Christensen that I would do this. First of all the positive things about LB701, is that it acknowledges that groundwater pumping is not the only cause of depletions to the river. The bill encourages transfers and that's going to be an important tool. The bill allows for the buying and selling of allocations which is another tool. And it encourages the savings of water in high-flow years for use in the

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later year. Now the negatives that I see in LB701, the bill sets specific allocations in state statute and I'm referring to Section 4, and this allows the Legislature to set allocations which I don't believe is correct. I don't think the Legislature should set allocations. And I'm not going to put anybody on the spot in this committee but I believe if we went around here and asked how many want the opportunity to set allocations for the Republican River Basin, I don't think too many would ask for that opportunity. I think that's a duty for the NRDs and the DNR. And the differences in what you show in allocations I cannot live with. I'm representing people in the 38th district and you start in there with allocations of 11 inches out west and as we move east it gets clear down to 6 inches. The percentage of reduction in the new allocation from the allocations at the present time start with a 19 percent reduction in the west end and go all the way down to a 45 percent reduction in the east end. I cannot accept that for the people that I represent. I prefer and Senator Christensen said it, indicated that you'd listen to other options and certainly I prefer the "share and share alike" across the three NRDs. I've calculated that out as best I can and I believe that would be 9.88 inches. I also cannot support the 25 percent reduction in surface water with no compensation and I also have a concern about, is if it's even constitutional to do that? These concerns I will be addressing with this committee and asking for amendments. And I'm simply telling you and the group that's here that that's what I'm going to pursue so that I am up front with you. Other than that, thank you for your testimony. [LB701]

STEVE SMITH: Thank you. May I make a comment in response to that? [LB701]

SENATOR LOUDEN: I'll give you a couple of minutes, yeah. [LB701]

STEVE SMITH: Thank you very much, sir. Page 17 of your booklet shows you what the allocation is that Senator Carlson is referring to; he is correct. It does make a reduction as it goes. Page 18 shows you how that was determined. Actually, why don't you put up the percent one, Dan, if you wouldn't mind? How was that number arrived at? Senator Carlson is correct that if you take a look at the existing allocations the reductions are greater in the eastern end of the district than they are in the western end of the district. However, let me address that. The Upper Republican NRD has been making cuts for 10 years, 15 years, has been setting allocations and doing everything they possibly could to do that. In other words they're starting at a different point in the game. They've already made many reductions that the others have not. If you take a look at page 20 it will show you a map that was handed out by the DNR in McCook in December. That maps shows the gross irrigation requirements to raise corn across the state. I simplified that on page 21 so it's much easier to read. What we did is we said, okay, if we go with 60 to 70 percent of what is required to raise corn, we end up with the map that you find on page 18 and as a result, the allocations that we do. Is that fair? Perhaps not. There are many definitions of fairness. Some people would argue that the definition of fair is the same allocation for everyone in the state but whose point do you set as the baseline? Do we set that point at Holdrege, Nebraska? Do we set it at Imperial,

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Nebraska? Do we set it in Lincoln, Nebraska? If we are going to set the allocation the same for everyone across the state, at what point do we choose? I don't know. Do we base it on the depth of the aquifer? Do those who have more aquifer underneath them have more allocation? Do we base it on geography? There are multiple definitions of fair. This is the one in my opinion that is more fair than many others. I obviously know that many people disagree with me and I think the amendments and discussion that you have will be critical, and I welcome that discussion because I think it's important to have. I'll stop there. [LB701]

SENATOR LOUDEN: Thank you. Senator Carlson. [LB701]

SENATOR CARLSON: Okay. Senator Louden, I'll make one more statement that I meant to make as a positive...that in the bill you don't differentiate north and south on allocation which means that you didn't separate out the quick-response area from the upland area and I agree that that's very, very important in order to keep from financial disaster. But I do not agree on the east-west allocation and we'll stick to that. Thank you. [LB701]

SENATOR LOUDEN: Other questions for Steve? Seeing none, thank you, Steve, for testifying. [LB701]

STEVE SMITH: Thank you very much for your time. [LB701]

SENATOR LOUDEN: (Exhibits 14, 15, 16) Okay. Right now I have letters of support from James and Laura Dake from Orleans, letters of support for LB701 from Jack and J.J. Boehler from Orleans, and a letter of support from Carl and Kathy Schneller, retired land owners in Chase County, to be read into the record at this time. And could I ask how many people are going to testify as proponents for this bill? Okay, 15? Okay, we'll have to cut that down. Can you get through it in about two and one-half minutes or under three? [LB701]

SCOT GERMAN: Senator if you can listen that fast I'll try. (Laughter) [LB701]

SENATOR LOUDEN: I'm a go-ahead guy. (Laughter) [LB701]

SCOT GERMAN: My name is Scot German, I live near Imperial, oh, that's G-e-r-m-a-n, one T in the Scot; Upper Republican District. I confess to being, as the World-Herald accuses, one of the few who is plundering the assets of the state's common known asset, water. And I'm here to offer a little bit of insight as to how such a monster as I developed. I believe it began with my great-great-grandparents who settled in Dawson County in the 1860s. If the hail didn't beat them or the grasshopper, it was drought that pushed them to the edges of survival. As one generation dreams of making their life better for the next generation, my grandfather Erling German sank one of the first wells

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in the state. My maternal grandfather, Albert Smith, not a farmer, but a lawyer, provided the legal assistance in developing irrigation districts, drainage districts, which further enabled our greed. A step-grandfather, Jim Adams, who has a plaque on the University of Nebraska's Ag Wall of Fame, he was not a farmer, but he was state servant. He provided educational and scientific instruction to help us in developing our irrigation. All the farmer had to do at that point was go out a couple of hours before sunset, work all day, go back after dark and just like magic, you'd almost guarantee himself an existence, even though that wasn't an existence that was very popular with any more than a minority of his offspring. Perhaps it was my first teacher in a country school north of Darr and I remember the conversation to this day where we were talking about property rights where she said, you know, if you have a property right, you have access to your water and your minerals all the way to the center of the earth. And unfortunately she hadn't read the Nebraska Constitution (laughter). Perhaps it was my dad who with my granddad's vision found that if he worked 80 hours a week pioneering pivot irrigation, he could make an acre of ground that could struggle to produce 40 pounds of beef a year, produce nearly 40 times that much. Now that's what I call plundering and wasting. In 30 years of farming we've produced more off that ground than was produced in all of recorded history prior to that. I'd challenge my accusers for the future unnamed use of water that they could use to top that, and I could blame myself. I had a good career flying F-16's and I came back to continue this madness of making a living leaving all my assets outside at night. When I got back I was shocked to find that what I'd learned in District 19 was wrong. And that if the state could take one inch of my water, they could take all of it. I don't think the state bureaucracy wants everybody to know that all at once, but I believe the cowmen in the Sandhills and the irrigators in the water-rich parts of the state have got to realize that if they can take my water, they can take anybody's. And this entire preamble is to say that I'm here in support of Senator Christensen's LB701 because it is an attempt to allow a significant portion of the state to salvage some value from the lifestyle we've inherited. Over 90 percent of my farm's family acreage lies in the quick response zone. The state's plan offered by the Governor and the DNR would reduce it to less than one-fifth of its production potential. It would affect 20 people directly and over 100 people indirectly. Legislative Bill 701 would leave the potential of our land already reduced by a third by previous cutbacks to within a viable level. Thank you, Senator Louden and the committee members for hearing me. [LB701]

SENATOR LOUDEN: Okay. Any questions for Scot? Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden. Scot, thank you for your testimony. Obviously in listening to you and your family, you are survivors and you've learned how to cope. Can you cope with 9.88 inches? [LB701]

SCOT GERMAN: We've got 2,000 acres of farm ground; already we have set aside 150 of that to dryland farming and 200 of that to grass. That's how we're surviving right now.

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We got up from 13.5 to 9.8, that's just a direct cut in the amount of farm ground that I can farm, economic potential. Personally me? Because of the work my dad and my granddad did, we can survive financially. But if I had to go to a bank and pay for a property payment, I don't know how those guys are going to do it. And I'd say I am in a very unique position to be able to farm with that kind of cutback. [LB701]

SENATOR LOUDEN: Are there other questions for Scott? Seeing none, thank you for testifying. Next testifier? [LB701]

RON FRIEHE: (Exhibit 17) Members of the committee and Chairman Louden, my name is Ron Friehe F-r-i-e-h-e. I'm from McCook, Nebraska. Up until eight years ago I was a full-time farmer, rancher, cattle feeder, and of course, irrigator...several generations. Due to health concerns I needed to make a career change eight years ago, so my wife and I rented our farms to our neighbors and I became a licensed financial advisor still serving the McCook area. As you might imagine, not only irrigation is important to me because of my ag land that I still own, but my 1,800 and some customers, many of them are agriculture people. I believe the rules in the Republican Basin need to be very clear and contain several important guidelines to build upon. In my opinion we'd have to be sustainable. That's something that hasn't been talked about today. We have to get into compliance and we have to come up with a plan that is reasonable, equitable, and treats everyone fairly in the basin. When I talk about sustainable, I'm suggesting that we not allow our water table to decline any more than it currently has. I'm not saying raise that table, but I'm saying not let it decline any more than it has. I know that in a few areas stock wells have already dried up and in many areas, Mr. Smith alluded to that over in Dundy County, the wells just don't produce what they used to because of declining tables. NRDs, irrigators, and everyone have already done a lot. I know they've sacrificed a large amount as has my farmers. But we just haven't done enough. We have to do more. It's not going to be easy but we have to do more. I've seen the studies that say if we reduce pumping any more, the result will be an economic disaster. In my opinion, that's just simply not true. In the Middle Republican, two years ago, this will be our third year, we started a 13 inch per year allocation where you had 39 inches to use over three years. Without an exception, every farmer that I have and I have eight farmers on my irrigated properties, came in and said, well Ron, you've got to share in this disaster with me. You've got to reduce the rents. This was two years ago, this will be the third. And I said, well, I'm not going to do that, let's see how we get along this first year. They said they just can't live on 13 inches. Now granted we've had some pretty timely rains the last two years but now after two years, do they want to take less? Of course not and I know it's going to be difficult. But they all got by on between 9 and 11 inches of water and that was just with two years of adjusting to the allocation. Nebraska's farmers are the best in the world; they are very good at adapting. I'm not suggesting they should if they didn't have the choice, but again I just don't think we have any choice. In my opinion the real economic disaster is going to come if we continue to allow the water table to decline. We are not only going to lose our ability to irrigate, but

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my ranching friends aren't going to have water for their cattle and then we haven't even talked about human consumption here today, our communities and our industries. I don't know what irrigated land is worth when you pump 30 or 40 percent less water, but I know what grass is worth when you have zero water. I have both alluvial and upland wells and even some surface water rights on both the Trenton and Enders reservoirs. In my opinion we cannot go down the endless road of laying blame on one another--his well drill bit mine or his well dried up my lake, it's too late for that. In my opinion the plan needs to say an acre is an irrigated acre no matter when the well was drilled, where it lies, when the land was developed, or whether it is irrigated by surface or ground water; we have to treat everybody the same. The rules on transfers and carryover allotments in my opinion need to be tightened. In the past some of those rules were a little bit too loose and they allowed additional irrigated acres to come in. I'm in favor of transfers but we have to tighten them up so that we cannot allow additional irrigated acres to come in. We are at our limit; we are fully allocated. I'd also like to see the program address industrial users and I'm not sure how to do that. Currently I'm of the understanding that an industrial user, let's say an ethanol plant and I support those very much, but they are able to come in and they're given a new additional allotment. I would like to see in this new plan, they have to retire someone else's allotment. Maybe they have to purchase an irrigated farmer's allotment to give them an allotment to run their industry. I'd also expect communities to do the same. I don't know what their level ought to be set at but in southwest Nebraska we still have several communities that don't even have water meters yet on their homes. Their bill is whatever...\$30 a month and you can let the garden hose run down the alley if you want to. I know cities don't use a lot but they...okay, getting close on time here. I do think that NRDs are the best to administer this but in my opinion local control has failed and the reason it has, we just can't expect people that serve on boards to make tough decisions that affect the livelihood of their neighbor; it's just an impossible task. So for that reason I think the Legislature needs to legislate the guidelines, the main rules of this and then let the NRDs, make them fit their particular NRD. Mr. Smith spoke about some different ideas on retiring rights or buying and selling, so. I'll quit there and ask for any questions. [LB701]

SENATOR LOUDEN: Questions for Ron? I have one, Ron, and this is even some of your last year...you talk about local control and your NRDs and you want the Legislature to more or less take over and set the rules and then let you guys go back and play the game. Did you ever stop and think that if the state takes that over, you might not get to play the game anymore; it might be somebody else's game? [LB701]

RON FRIEHE: Yeah, I did but I know that we're to a point that if we don't do some of these tough decisions ourselves and again I'm not critical of the NRDs. We've got some excellent NRDs out there. In my opinion their hands were tied a little bit by some actions in the past of other...some state agencies and state officials, but be that as it may, we're not going to lay blame. But the answer to your question, if we don't do it now, we've had, the NRDs and we farmers have had I think four years, and almost five, to make

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these tough adjustments since the settlement in '02 and we just haven't been able to do it politically, we just haven't been able to get it done. [LB701]

SENATOR LOUDEN: And the next thing that I would ask a question about is you mentioned you got what, 9 inches of water, something like that? [LB701]

RON FRIEHE: No, we have 13, in the Middle... [LB701]

SENATOR LOUDEN: You got 13? Well, in the district I represent those guys out there around Scottsbluff and there, they are raising crops with nine and less. And they don't have about 12 to 14 inches of rainfall. In your areas your rainfall is a little bit higher and you got a bigger allotment. Why can't you raise crops if they can do it out there, why can't you do it down there? [LB701]

RON FRIEHE: I think we can. [LB701]

SENATOR LOUDEN: Then what's the problem? [LB701]

RON FRIEHE: I didn't say there was a problem. I said it was going to be a tough decision. [LB701]

SENATOR LOUDEN: Okay, you don't mind them cutting back down to nine then in your area, is that what... [LB701]

RON FRIEHE: If they treat everybody the same, I think producers in, and what I said Senator, they won't like it but they'll make it work. They'll become more efficient. [LB701]

SENATOR LOUDEN: Okay. Now you got flow meters in your district? [LB701]

RON FRIEHE: You bet, yeah. [LB701]

SENATOR LOUDEN: Yeah. Should these districts also, NRDs also include some soil profile meters or something like that? I mean the technology is there so that you know how much water...and this is how they're doing it out there around the Scottsbluff area... [LB701]

RON FRIEHE: Yeah, right. [LB701]

SENATOR LOUDEN: ...they're nearly all using electronic meters of some kind and that's when they water is just when they have to. [LB701]

RON FRIEHE: Yeah, that may very well be part of being efficient. A lot of them are already using them, I won't say all of them are but sure, every tool they can find to

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become more efficient they need to. [LB701]

SENATOR LOUDEN: But they can grow crops with less water than what they have been over the years. [LB701]

RON FRIEHE: Sure. I think so. We're getting to be better at it. [LB701]

SENATOR LOUDEN: Okay, thank you. Any other questions? Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden. Ron, I appreciate your testimony and your attitude and your statement about not lowering that aquifer any more than it already is and it sounds like you are a survivor and you can get by with 9.8 inches. [LB701]

RON FRIEHE: Yeah, and keep in mind I rent my ground to farmers but I'm directly related in two ways. If they can't survive I can't survive and I've got some very good ones. But also my financial business; I can't survive. And I know cattlemen and I think a lot of you folks are, and there are stock wells dry in our area. So yes, you're right, Senator. One quick comment I'd like to make too. We've talked about...we've danced around surface water a little bit in my opinion. And I appreciated the senator's comments about surface water ought to be treated equally. You've got to remember and again, I'm not here to say anything is to blame, but there are a lot of surface water users that have had zero for 12 to 15 years on the Enders Reservoir. We on the Trenton Reservoir, this will be our fifth year. Not a 10 percent reduction, not a 20 percent reduction, a 100 percent reduction; we've gotten zero. Now Steve made a good point about the guys with wells. It hasn't hurt them too bad because they could supplement, but not everyone has those wells. So there's already some folks that have given a lot. [LB701]

SENATOR LOUDEN: Other questions for Ron? Senator Fischer. [LB701]

SENATOR FISCHER: Thank you, Senator Louden. I can't believe that you said that the local NRDs can't make the decisions. Did you say that? [LB701]

RON FRIEHE: I did and I'll say it again. And the reason I think... [LB701]

SENATOR FISCHER: No, no, please, you don't need to say it again. (Laughter) I don't agree with you and I'll just be up-front, I don't agree with you. And to say that a locally elected board can't make decisions with the knowledge they have that affects the people in their area, I think that's really dangerous. And I agree with the Senator, well I don't know if I agree with Senator Louden, but I'll refer to what Senator Louden said earlier about this too. Why would you want the state to step in at this point and in this area, I don't ever want the state to step in anyplace. I think that's a...I think it's foolish to pass that over... [LB701]

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RON FRIEHE: Well, but... [LB701]

SENATOR FISCHER: Just a minute...(laughter). I think it's foolish to say, oh, you know, gee, we don't want to put this burden on our local people. Senator Christensen represents the local people. I do. Senator Carlson does. I guess we have that burden too. And I think it's very dangerous with any issue but especially the water issue in this state, to say, we don't need our local NRDs and gosh, it's just too tough on those folks, we'll let the Legislature do it. Your comment. [LB701]

RON FRIEHE: I never said we didn't need the local NRDs. I said in my opinion the state, and don't get me wrong, nobody likes the state, much less than me. (Laughter) But in my opinion...(laughter) the... [LB701]

SENATOR FISCHER: Oh now wait a minute...(laughter) [LB701]

RON FRIEHE: ...main guidelines... [LB701]

SENATOR LOUDEN: You've got one minute, one minute. (Laughter) [LB701]

RON FRIEHE: ...well I've got to answer the question, Senator... [LB701]

SENATOR FISCHER: You've got one minute. (Laughter) [LB701]

RON FRIEHE: ...main guidelines... [LB701]

SENATOR FISCHER: The chairman can do what he wants. [LB701]

RON FRIEHE: ...have to be set by the state and reason I said that, we've had years...the NRDs...it's tough to make that decision about your neighbor, in my opinion is why they haven't been able to do it. It's not because they didn't want to but the political pressure has been tough. But to let them regulate it, let them make it fit their NRD specific for their needs but that framework, I just believe they can't do it. And if you don't buy that, we've had several years to do it and it's not because they haven't tried but they just haven't been able to agree. And it's my understanding that if we don't do it I'd rather have the Legislature do it. I'd feel more comfortable working with you folks than I do a federal judge, and we are very close to that, Senator. And the only other comment I'm going to give you is, why don't you let us set our local state speed limits and our local state income tax rates and see how we get along? (Laughter). [LB701]

SENATOR LOUDEN: Okay, go ahead Senator Hudkins. [LB701]

SENATOR FISHER: Yeah, and I'm going, let's see how we get along, yeah. [LB701]

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SENATOR HUDKINS: Yeah, one thing to remember when you are in a hole is to stop digging. (Laughter) And I would agree with Senator Fischer. I am a farmer but I am also a member of the Lincoln delegation. I love the rest of the Lincoln senators to death; also the ones from Omaha. But pardon me, I don't want Omaha senators who don't understand the water issues; I don't want them making...(laughter) I'm sorry, Senators, but (laughter) he doesn't. He is a school person. (Laughter) [LB701]

SENATOR KOPPLIN: Just for the record I know a heck of a lot about water. (Laughter) [LB701]

SENATOR HUDKINS: Okay, I'll quit digging too. But one other thing that I wanted to ask you. I think I heard you say that you had rented out your farm ground and because of the drought your tenants came to you and asked you that they thought that you should share in their pain and lower the rents and you did not do that. If the situation continues for another couple of years, are you going to do that? [LB701]

RON FRIEHE: Sure. I think we'll have to. The reason I didn't at that time and it wasn't because of the drought, it was because of the new allocation that came in for the Middle Republican. And the reason I didn't is because for every farmer that asked me to reduce rent I had five wanting to rent more. You know, what...saying hey, if he lets that go, I sure want a chance at it. I didn't want to do that; I've had the same people for the eight years since I quit, so. And I guess maybe I've got my hole pretty deep but I want to also let you know, I didn't mention it, I served as the chairman of the Republican Basin Governor's Advisory Council under two governors, under both Nelson and Johanns. And we were an advisory group made up of all NRDs, business people and surface water irrigation districts in the Republican Basin. We spent almost six years trying to come to some decisions on this and we couldn't. And so again it's just a tough issue for an individual to do out there. [LB701]

SENATOR LOUDEN: Questions again for Ron? [LB701]

SENATOR HUDKINS: My apologies to Senator Kopplin (laughter) but what I'm saying is... [LB701]

SENATOR KOPPLIN: I'll buy you lunch... [LB701]

SENATOR HUDKINS: ...most city people don't understand. Senator Kopplin obviously does. (Laughter) [LB701]

SENATOR LOUDEN: Thank you for your testimony. [LB701]

RON FRIEHE: You bet, thank you. [LB701]

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DON ADAMS: Good afternoon, Senator Louden and senators of the Natural Resources Committee. My name is Don Adams, A-d-a-m-s. I'm executive director of Nebraskans First, a statewide groundwater irrigators coalition. I want to thank Ron Friehe for loosening the crowd up and this committee and Senator Fischer, I would agree with you. I'm shocked on his views on the NRDs. The Republican River Compact was entered into by Nebraska, Kansas, and Colorado in 1943. At that time there was no ground water irrigation, no natural resources districts, no Harlan County dam. Never in the 50-plus years in the compact's existence leading up to this lawsuit, was it ever amended and updated to deal with the realities of the last half of the twentieth century when groundwater irrigation took off. From 1943 to the present, irrigators in the Republican River Basin fully complied with all state water laws and NRD regulations. While so doing they invested heavily to upgrade their operations by drilling new wells, installing new pumps, and center pivot sprinkling systems. Such reasonable and prudent business decisions involved huge sums of money being expended, all in reliance on the state's laws and official policy that groundwater was not included in the compact. Neither these irrigators nor the NRDs were parties to the 2002 settlement agreement. It was the state of Nebraska who cut the deal with Kansas. This matter is a state issue and a state responsibility. Our board met last month and after much debate voted to support the original LB701 primarily because of the inter-basin transfer component and the state funding provision. Today LB701 is much different and our board hasn't had a chance to take a formal position on it but I can say that we do not support allocations being in state law as the revised LB701 so specifies. Twenty-five green lights on the floor can change 9 inches to 4 inches in a heartbeat. But I can tell you where Nebraskans First does stand on the key issues. The Republican River is a 80, 90 percent runoff-fed river. It is irrefutable to conservation measures, terracing, farm ponds, etcetera, hold huge amounts of water on the land that otherwise would run into the river. Right now as you saw from those photos taken three days ago in northwest Kansas where the Republican River begins, which is the drainage of the Beaver, Sappa, and Prairie Dog Creeks, an area of about 6,000 square miles, terraces and farm ponds are holding back about 450,000 acre-feet of water from running into the Republican River and completely filling Harlan Reservoir. Kansas wants to know where their water is. Well it's in Kansas. Compared to conservation measures and riparian vegetation, the impact ground water pumping has on Republican River flows is small. Nonetheless the DNR has chosen to solve the compact compliance problem on the back of ground water irrigators. This approach will never solve the problem but it surely will destroy the local economies, communities, and schools in the Republican River Basin. Franklin Public School superintendent Mike Lucas, who is here today knows the seriousness of the situation. He called DNR's proposal quote, a death sentence because the tax base that schools rely upon would be drastically reduced by the sharp reductions in groundwater pumping proposed by DNR. Land values could easily drop 50 percent. Back in 2005 then DNR director, Roger Patterson, assured the Republican River Basin NRDs that if they did adopt the allocations that are now in effect, that would

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be sufficient to achieve compact compliance going forward. So much for that promise. As the situation stands today downstream, Kansas lakes are full and Kansas irrigators are allowed adequate water to raise a crop. Upstream from Harlan, the hills of Colorado and Kansas are flush with water and terraces and dams that would otherwise be flowing in Nebraska. Nebraska Republican River basins have endured severe cutbacks in their allocations. They have paid the price; they have sacrificed. No one else in this process is sacrificing but our irrigators and that is not fair. We cannot allow this plan, the DNR plan, to go forward. It would devastate the local economies down there and I know that area is sparsely populated with little political clout and that is why the state must stand up and defend the Republican River Basin communities. Our government must not expect them to surrender their heritage and the economic health and welfare of their communities. Thank you very much. [LB701]

SENATOR LOUDEN: Okay. Questions for Don. Senator Hudkins. [LB701]

SENATOR HUDKINS: Mr. Adams, thank you very much for being here today. I appreciate your feelings, but what happens if nothing gets done and a federal judge comes in and says, nobody irrigates anymore anywhere? [LB701]

DON ADAMS: Yeah, the fact of the matter is without addressing those conservation measures which are 80 percent of the problem, and factoring that into the model and for Nebraska and Kansas dealing with that fairly, we cannot solve the problem by going the route DNR wants us to go; we cannot solve it. And I cannot believe that Kansas officials, their waters are, or their governor or attorney general, want to see those communities destroyed when in fact no matter what we do, the way we are going now with groundwater irrigation, we can't comply. I don't believe that would ever happen. I don't believe any judge that had a fair-minded disposition would allow that to happen. We cannot comply with the compact by solely targeting ground water irrigators and cutting them back to allocations that is effectively taking of their personal property rights. [LB701]

SENATOR HUDKINS: Thank you. [LB701]

SENATOR LOUDEN: Senator Fischer. [LB701]

SENATOR FISCHER: Thank you, Senator Louden. Thank you for being here today, Mr. Adams. But back to the bill. You're up supporting LB701 but are you supporting it? You said you don't support the state allocating the water. Do you support the bill? [LB701]

DON ADAMS: Well the only bill in bill form that I've seen has been the green copy LB701 and that's what our board looked at and debated. I've seen a summary of the new version...I have not... [LB701]

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SENATOR FISCHER: Okay. And did your board take action to support the green copy? I'm just trying to clarify this for the record. [LB701]

DON ADAMS: Yes. The green copy, two weeks ago we took action to support that. [LB701]

SENATOR FISCHER: But you have no position then on the amendment that Senator Christensen offered? [LB701]

DON ADAMS: No. I can't say with certainty that we do not support the allocations being specified into state law. [LB701]

SENATOR FISCHER: Okay. Thank you very much. [LB701]

SENATOR LOUDEN: Other questions for Don? I would have one, Don. When you mentioned something about what Kansas is doing and the sacrifices you've made in the Republican River, my understanding is and of course I haven't been in politics all my life, but my understanding is that Kansas hasn't drilled any new wells for 20 years or more over in the Kansas side of the border. They have a higher allocation but they haven't drilled any wells. Whereas down in Lower Republican there was several...there was hundreds of wells drilled here in the last, what, ten years or so. How do you respond to that? When there's been a whole bunch of new wells drilled in the area and then all of a sudden you're saying, well some of these folks are going to make a sacrifice. [LB701]

DON ADAMS: Well for example, in the Ground Water Management District IV which is northwest Kansas, those ground water irrigators get a minimum of 18 inch allocation. [LB701]

SENATOR LOUDEN: But they haven't had any new wells for how many years? [LB701]

DON ADAMS: I'm not sure. But is that fair? Milford is full. Milford Lake... [LB701]

SENATOR LOUDEN: Well if you guys hadn't have been able to drill any wells for the last 20 years we might not be sitting here today is what I'm saying. [LB701]

DON ADAMS: All our guys did was make sound business decisions in compliance with the state Constitution... [LB701]

SENATOR LOUDEN: True... [LB701]

DON ADAMS: ...state laws, and all rules and regulations of the NRDs, they've done nothing wrong, nothing wrong. [LB701]

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SENATOR LOUDEN: Yeah, I'll grant that but I'm talking about common sense, see...and that's where I wondered. I have a problem when people come in here and testify and talk about the sacrifices they're going to have to make when they did some of this drilling not that many years back and everyone in that area should have known that there was a problem on the very near horizon and your NRDs should have known that. That's what I'm stating; that's where I have the problem at. And this is what we're trying to solve now. We are trying to give you guys a soft landing. [LB701]

DON ADAMS: It was always the policy of the state and you can read the compact committee minutes that ground water was not included in the compact. That was the policy of the state up until the lawsuit. So the NRDs and the irrigators were acting rationally and as reasonable businessmen. [LB701]

SENATOR LOUDEN: Okay, we'll let you go at that. Other questions? [LB701]

DON ADAMS: Okay. [LB701]

SENATOR LOUDEN: Other questions? Senator Fischer. [LB701]

SENATOR FISCHER: Thank you, Senator Louden. Mr. Adams, in regards to Senator Louden's comments, you would agree that the people who put in the wells at the time were following law? They were doing nothing wrong? [LB701]

DON ADAMS: Precisely. They were developing their land as wise businessmen should, yeah. [LB701]

SENATOR FISCHER: In fact they were being encouraged by the University of Nebraska, the county extension agents who were even in my area of the Sandhills, encouraging us to put in irrigation. [LB701]

DON ADAMS: I don't know if the university was encouraging, I would doubt that very much. [LB701]

SENATOR FISCHER: Okay, but they did nothing wrong. Were they encouraged by anybody? [LB701]

DON ADAMS: Of course not. [LB701]

SENATOR FISCHER: To put in pivots. [LB701]

DON ADAMS: I mean, to be a good businessman in that business to maximize your profit and production, you irrigate. And you irrigate, you know, wisely and prudently and

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with conservation in mind and that's what they did. Production is good in this state. We do that better than anybody else in the world; we shouldn't discourage it. [LB701]

SENATOR FISCHER: I would like to make note that yes, the university in my area and county extension agents were traveling the Sandhills and encouraging us to put in center pivot systems in the Sandhills because that was to be the future of Nebraska. And I believe there was an article in either the Omaha World-Herald or the Lincoln Journal Star that said that. Woody Varner was a definite proponent in the '70s of that. So I agree with you that you did nothing wrong. You were following the law and making sound business decisions. Thank you, sir. [LB701]

DON ADAMS: Thank you. [LB701]

SENATOR LOUDEN: Other questions for Don? Seeing none, thank you. [LB701]

DON ADAMS: Thank you. [LB701]

SENATOR LOUDEN: Next proponent? [LB701]

GREGG SMITH: Senators, thank you for taking the time to listen to me today. My name is Gregg Smith, G-r-e-g-g S-m-i-t-h. I am a fourth generation resident of Chase County, Nebraska. President Grover Cleveland encouraged my family to aid in the development of Nebraska. The state of Nebraska encouraged my family to develop irrigation for the benefit of the state. The population of Nebraska, myself included, desires sustainability. It is impossible, however, for the aquifers and rivers in the Republican River Basin to achieve sustainability without access to outside sources of water or by severely damaging the region's economic base. Sustainability is a simple function of planning and investment. Cities in the southwest like Phoenix, Las Vegas, and Denver, city planners predict the future needs of their cities and then actively fund and build projects to provide adequate and essential services such as water and power. Without critical engineers and politicians, these cities would never be sustainable. These cities would never tell their residents that they have overdeveloped and would have to depopulate. Shortages of water, power or other services would indicate shortsightedness and incompetence on the part of these professional engineers. Nebraska's water system is somewhat broken, not due to its overuse, not because its engineers are incompetent but due to a lack of planning, investment, and foresight. I believe that Senator Christensen is attempting to change that and should be listened to. Even to this day the Nebraska DNR, local NRDs, and federal government continue to divert water from streams through the installation and upgrading of miles and miles of terraces and acres of retention ponds. Irrigation has taken its toll on streams and aquifers. Our current imbalances indicate years of neglected planning and efforts to eliminate or reduce the side effects of these beneficial practices. If terraces are built to prevent erosion and runoff then they should be countered with an artificial infusion of imported water to make

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up for the difference. If irrigation is reducing levels of an aquifer, then a long-term strategic plan to refill that same aquifer should have been developed. To stop using an aquifer or to remove terracing is a step backward that should never be taken. What we need are the forward steps of increasing supplies and recreating lost stream flows. Without future investment and engineering, Nebraska's water system simply cannot be brought into sustainability. Reductions in irrigation will only shrink the very economic strength necessary to pay for future growth. Taxing one individual in order to retire another is an impediment to the state's economy while taxing to invest in infrastructure is an economic stimulant. Our university minds and state engineers are given the task to education people on how to deal with unavoidable future reductions in water usage. These same minds should be tasked to develop and design methods of increasing water supplies. At a time when the ethanol industry is revitalizing rural Nebraska, we have an opportunity to become the nation's leader in water management just as we are the backbone of the nation's fiber optic, rail, electrical, and interstate networks. Senator Christensen realizes Nebraska is a water-rich state. Five point eight billion gallons of excess water are leaving the state every single day. Another 12 billion gallons pass by in the Missouri River every day, much of which should be for use in Nebraska. Nebraska is home to 60 percent of the world's largest aquifer, most of which has never been touched. [LB701]

SENATOR LOUDEN: One minute. [LB701]

GREGG SMITH: I support LB701 because it puts proportional responsibility for the Republican River Basin imbalances where they truly lie, which should include state-sponsored conservation practices and uncontrolled vegetative growth rather than exclusively with irrigation. LB701 gives at least some incentive to individuals and groups to creatively search out and acquire their own sources of water. I would prefer that we as a state collectively, as compared to individually, build new infrastructure. Nebraska has no excuse for not employing one state or many regional qualified water engineers who could lead this state out of its water imbalances. Nebraska can only achieve sustainability through professional planning, steady positive economic growth, and stimulated development. It is called progress. And if Nebraska continues to stop development and takes major steps backwards then the Republican River Basin will suffer from recession, lose its best people to cities and other states, and will seriously hinder any future ability to become sustainable. It is called regression and should be avoided at all costs. In summary, I want you as leaders of this great state from the local level to the Governor's office, to work jointly together to move this state forward to the next decade. Whether you like this particular bill or not, I believe that we should all work with a forward-thinking Senator Christensen to develop the best legislation possible. The Republican River Basin is heading for a crisis and its citizens need action on your behalf immediately. Thank you for your time. [LB701]

SENATOR LOUDEN: Okay. Questions for Gregg? Senator Fischer. [LB701]

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SENATOR FISCHER: Thank you, Senator Louden. Gregg, do you support the green copy of the bill or the amended copy? Have you seen the amended copy? [LB701]

GREGG SMITH: I prefer the first copy. [LB701]

SENATOR FISCHER: Do you support the state allocations in the amended copy? [LB701]

GREGG SMITH: I would prefer that it is handled locally. I think what this bill does is suggest that irrigators might be willing to sacrifice a little bit more in exchange for participation on the state and the state perhaps fessing up to its share of responsibility for sponsoring such programs such as terracing. [LB701]

SENATOR FISCHER: But yet you want the state to be involved in, you used the term, sustainability a lot, and you also said that the state needs to build more infrastructure. What did you mean by the state needs to build more infrastructure? [LB701]

GREGG SMITH: I think sustainability is a term that we need to head towards, but the gentleman before me suggested that he would like to see sustainability, meaning the aquifer should never decline. I'm saying that our aquifer will continue to decline until we put an infusion of water into the system. The only way to stop an aquifer from declining is to fill it back up. Lake McConaughy, excuse me, I'm...go ahead... [LB701]

SENATOR FISCHER: So...go ahead... [LB701]

GREGG SMITH: ...Lake McConaughy has demonstrated for years that water running through canals and seeping into the aquifer can actually rebuild and create a mound effect. [LB701]

SENATOR FISCHER: But what did you mean when you said you wanted the state to build more infrastructure? [LB701]

GREGG SMITH: I believe the state lacks for a state planner. I believe that... [LB701]

SENATOR FISCHER: But infrastructure...do you want us to build more dams, do you want us to build more canals, do you want...what do you want for infrastructure? [LB701]

GREGG SMITH: Yes, yes, yes, definitely. I believe that the Spring Creek transfer would be one quick and efficient way of adding more water into the southern part of the state. I believe that this state is rich in the northern parts and the eastern parts of the state. I think we have not a water shortage problem in the state of Nebraska, but a water

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distribution problem in the state of Nebraska. I know that people weren't too happy about the Ashland proposal... [LB701]

SENATOR LOUDEN: Okay, does he have your question answered? [LB701]

SENATOR FISCHER: You've got it, thank you. [LB701]

GREGG SMITH: Very well. [LB701]

SENATOR LOUDEN: Anyone else have questions for Gregg? I have two questions. First of all, are you related to Steve Smith? [LB701]

GREGG SMITH: He's my brother. [LB701]

SENATOR LOUDEN: Okay. I could have guessed that. The second thing is when you talk about this water transfer do you think that's constitutional or, I mean, if we transfer it out of that basin they're already wondering where their water is. Okay, and I agree, we got surplus water but most of it's coming out of the Sandhills down the Loup Rivers, it's a long ways from Imperial and the Republican River. Do you think that that would be constitutional? A water transfer like you...at Spring Creek as they talked about? [LB701]

GREGG SMITH: Absolutely. I believe it's currently permitted. I believe there is some water moving right now out of the basin, out of the tri-basin. The mound effect is already importing water into this basin. The fact is we're doomed in the southwest. If the state wants us to go to sustainability, we are doomed if there are lines that we cannot cross. If we cannot source water from anyplace... [LB701]

SENATOR LOUDEN: Okay, now and the next question I would have, the last one, and you talked about terraces and since it's all a family matter. Do those terraces help recharge the groundwater? I mean you're holding the water back, that water has got to go someplace. It's got to go down or else evaporate. But how much of that is something that recharges the groundwater with your terracing and some of your eco fallow farming? That holds the water there so it's got to percolate down, do you... [LB701]

GREGG SMITH: I'm no expert in that field but I would imagine that yes, it does hold the water from the stream and would recharge groundwater. [LB701]

SENATOR LOUDEN: Now is that where you get...see, I come from the Sandhills where if we have water up in the hills and we have pockets full of water in the hills, our springs start showing up down in the valleys and that's what I'm wondering if that happens in your part of the country or if you have any idea on that. [LB701]

GREGG SMITH: I do not. [LB701]

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SENATOR LOUDEN: Okay, thank you then. Other questions for Gregg? Thank you for testifying, Gregg. [LB701]

GREGG SMITH: Thank you. [LB701]

MIKE LUCAS: Hi, I'm Mike Lucas representing Franklin Public Schools, last name, L-u-c-a-s. And I want to thank you for this opportunity to visit with you today. I want to remind all the people in the overflow room and it is crowded and overflowing itself, that the television adds ten pounds to your appearance, so keep that in mind (laughter) to all my friends there. This is my fourth year in Franklin and I wanted to first off give a big thank you to Senator Carlson and Senator Christensen for their leadership in our area. We are thrilled with the job they are doing and how they are representing us. From the school side of things, I want to give you a simple example of how this irrigated land to dryland situation affects us. And first off I want to say I am in favor of the original version of LB701, I guess what's being called the green copy. I'm pretty lukewarm about the new LB701 however, I do like Senator Carlson's ideas with the higher allotments of water than what this newer version has. But in Franklin, Nebraska our--we just found out that our state aid is projected to go up \$32,000 next year. That's great news; we're very appreciative and thankful for that. However, with the turmoil that our farmers are in and the irrigated dryland controversy, our valuation which is already extremely low, is projected to go down \$5.6 million. So what that means is when you take into account increase in state aid, decrease in valuation, the money we're going to be able to generate is going to be about \$34,000 less than what it was this year. So state aid is not always the end all for smaller schools like Franklin. The Lower Republican area has school districts from Superior all the way out to Cambridge and the current plan that the DNR and Governor Heineman have had in place that's received a lot of publicity, would cut \$3 billion to \$4 billion worth of valuation in that area from what our understanding is. We had the great opportunity on February 5, myself and one of my teachers and several other representatives from the Lower Republican area, we were able to come to Lincoln and meet with Dr. Bleed and Governor Heineman and we were very appreciative of that opportunity. And at the February 5 meeting we presented some short-range and long-range goals to Governor Heineman and Dr. Bleed. We addressed the fact that annually Nebraska loses approximately seven million acre-feet of water that just runs out of our borders. We talked about the fact that maybe some water diversion plans could be implemented to help offset that, even a small fraction of that. We presented a map about some things that Colorado was doing in the mountain areas. Shortly after that meeting we found out about the Texas and Canada water transfer deal and so there are things that are going on water diversion-wise that maybe Nebraska could address. We also brought up as a long-range goal the possibility of opening back communications with Kansas. We feel like our farmers have done a tremendous job of working to get into compliance. We've heard a lot of testimony today about all the reasons beyond our control why they are not in compliance. Over the last two years

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even though our farmers were able to use 11 inches of year annually in our area, they used 7.4 and 7.6 inches respectively and I think that's a great credit to the efficiency and the effectiveness of the Nebraska farmer and especially the Lower Republican farmer. In closing I want to say I love rural Nebraska, I am a native Floridian and my high school had two and a half times more students than Franklin has residents. And I, as a father of four and as a superintendent of a school that has 340 students, I'm just thrilled to be in rural Nebraska. I'm one of the biggest fans of rural Nebraska there could be. We have one of our students here today back in the back. His name is Evan Schluntz. He's a junior and a big part of our FFA program and Evan Schluntz is real representative of our entire school system. And I would take our 340 students or our 34 graduating seniors this May and put them up against anybody else who is in the state and the country. So... [LB701]

SENATOR LOUDEN: Questions for Mike? Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden. Mike, I appreciate your testimony and you're so strong on rural Nebraska that I'd like to encourage you to--let's recruit some more people, families from Florida, and move out here (laughter) and accept our quality of life. We have something to market. [LB701]

MIKE LUCAS: Another tornado or hurricane would do that I'd bet (laughter). [LB701]

SENATOR CARLSON: I appreciate you bringing up the fact that the farmers in you area have done such a good job of water conservation. We don't want them to be penalized for that because of a lower allocation. Thank you. [LB701]

MIKE LUCAS: Thank you. [LB701]

SENATOR LOUDEN: Other questions for Mike? Seeing none, the only thing now is, do you want us to put it straight on the record that this television monitor--do you actually weigh 152 pounds? (Laughter) [LB701]

MIKE LUCAS: Well a little bit more than that after lunch. (Laughter) [LB701]

SENATOR LOUDEN: Okay. Thank you. Thanks for your testimony. [LB701]

MIKE LUCAS: Thank you. [LB701]

DAVID NABITY: My name is David Nabity and I am from Omaha, Nebraska, and I live at 152 and Pacific, and you might wonder what in the world is this guy doing here piping up on this issue? And over the last three years I ran for statewide office and got to know a lot of the people in the different river basins and got a pretty good understanding of the economics of what's going on in this state. And you know, it's interesting Senator

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Carlson, you say why don't we get more of these Floridians to move up here to Nebraska to experience the good life? The one big reason they won't is because the tax burden in Florida between real estate, income, and motor vehicle taxes, is half what it is here. And the reason that I'm speaking up today is because I'm concerned about the direction that this state is going economically. And there is no question that if we want a vibrant economy in this state and we want lower taxation, we've got to make sure that every section of land in this state is productive--making money, creating jobs, paying taxes, and supporting everything that we have in the way of infrastructure. And unfortunately I think there's been a lot of demonization of the business people that own land that have been trying to get as much production out of their property as they can to be profitable. And with that profitability comes revenue and with that revenue, assuming the Legislature can keep spending under control, we have the hopes of lower taxes in the future. And as I look at LB701 I'm really in support of it because it looks to me like it's one of the first strategic plans that have been put out here where those that are in business along the river basins are given a little bit. But it is pushing responsibility onto the backs of the DNR where it should have been in the first place. And when it came to dealing with Kansas it was the DNR that went down and negotiated agreements. And you know when they left off the impact of federal conservation and the way that it restricts water from getting back to the rivers, and conservation was mandatory--to me it's just beyond me that the federal government wasn't brought to the table to possibly step up and pay any fines that may be due to Kansas. So I believe the DNR has let down our business people that own ag land and have tried to run profitable businesses. And so what I see LB701 doing is it's putting a lot of duties on the table that should have been on the table a long time ago to bring more science to everyone so we can really take a proper accounting of why water isn't make it back to the streams and what do we need to do to give and take to comply with Kansas. In my opinion I wish that we could completely revisit the agreement that we have with Kansas because I feel like a 1941 agreement that didn't really take into account the drought that we've been going through and has not accounted for all the federal conservation policies we've got an inability to perform anyway. And I'd like to see that readdressed if I could. A couple of key points. I believe the state must solve these problems for all the reasons that we've heard already. And we need to do things like cutting vegetation, but by golly we've got to develop a twenty-first century water management and distribution system. And I'd like to see what we're going through right now be an opportunity for us to set up a water management system that would be the envy of the world. We've got the ability to do it. We've got the aquifer. We have a drought right now but you can see we have also got Kansas holding a whole lot of that water before it even gets into Nebraska. But we do have the opportunity to develop a twenty-first century water management system that could make us the envy of the world. You know when you have...I think it's...I don't even know what the numbers are but we have a huge amount of water that comes into this state and we have a huge amount that leaves it. We need to have a system that stores more water and we need to have a system that transfers water from areas of surplus to areas of need so that everybody can stay in business, so that every county is profitable,

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so that we are getting as much revenue off the land as we possibly can, and if the Legislature does its job and keeps spending under control, we can finally be able to see tax relief. If we screw this up we will screw up the entire economics of the state and the people like me that live in Omaha, Nebraska are going to suffer just as bad as everybody else because all we're going to see is our tax load going up and up and up. So I encourage you to think outside the box, look for new innovations, put the DNR in a position where they've got to think innovatively and let's develop a twenty-first century system that's the envy of the world. [LB701]

SENATOR LOUDEN: Any questions for Mr. Nability? Seeing none, thank you. [LB701]

DAVID NABILITY: Thank you. [LB701]

ED SCHROCK: Good afternoon, for the record my name is Ed Schrock, that's spelled E-d S-c-h-r-o-c-k. I'm here to represent the South Platte Chamber of Commerce. First of all the South Platte Chamber of Commerce is commending Senator Christensen for introducing LB701 and although individuals in our organization may disagree or not agree with some of the portions of it, we think Senator Christensen has some ideas here that should be worked with. I'm going to testify on some things that aren't necessarily what the South Platte would support. But I do want to comment on the water transfer. We did, the Natural Resources Committee did hold a hearing in Holdrege last May and I found out what I suspected. If you are from the Republican River Basin you are in favor of transfers. If you are from the Platte River Basin you are opposed to transfers. Now I drove across the Elm Creek bridge this morning to get here this morning. There's quite a little water in the Platte River, by my standards. As a farmer, I see that as water going to waste. If you are in environmentalist you see that as water for the birds and to scour the river and to make it look better for our migratory birds. If you are a municipality downstream you see that as water for my city. So we have a conflict there. But I think in times of excess on the Platte and there could be quite a little bit of water come down the South Platte this year from this...keep in mind McConaughy intercepts the North Platte, McConaughy is empty, there won't be any water coming from the North Platte. There could be quite a little bit of water coming down. Is it possible to transfer? Yes. But you have to have agreements on both sides. I don't know if it can be done or not but it needs to be looked at. But we also have to remember the Platte River is an overappropriated basin. One of the things that does bother me is that Central Nebraska Public Power and Irrigation District manages Elwood Reservoir. Elwood Reservoir cannot intercept water, natural flow water and put it in the reservoir. The only way they can put water in Elwood Reservoir is from storage water out of Lake McConaughy; that's an agreement when the reservoir was built. If that reservoir is allowed to dry up, it's going to kill a very nice fishery. There's good Walleye fishing there and it may be the best muskie fishing in the state. Plus the fact a lot of the water that's put in the Elwood Reservoir seeps out and ends up in the Republican River Basin. And if you do let that reservoir dry up then you're going to impact the amount of water that

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gets transferred underground from the Platte River Basin to the Republican River Basin. So I would like this committee to start asking some questions from the Game and Parks, Department of Natural Resources, and it just makes a little sense that some of that water should end up in Elwood Reservoir or if not, in Spring Creek. I have some neighbors that would probably be upset with me for saying that well, some water from the Platte River Basin could be transferred. I don't think it's a permanent solution and I don't think that it's something that can be counted on from year to year. But when the Republican River Basin has compliance problems it just makes sense that the whole state steps up and helps a little bit and that's one way it can be done. I think at this point in time it's no use to playing the blame game, the NRDs, this committee, the Governor's office, the Department of...the Attorney General's office needs to all work together on this and come up with solutions. Not everybody's going to like it and you're going to get blamed because it isn't all right. Somebody's not going to like what you do but you've got to go ahead and do it. I've always said the natural resources in this state don't get any respect. We are the Rodney Dangerfields of the Legislature, of this state. There's plenty of money for education, well there's not plenty, but it seems like there's a lot of money that goes for education, a lot of money goes for health and human services, but stop and think about it, very little money is spent on our natural resources especially at the state level. Sure the state's not going to put a lot of money into this but they need to put some. The Governor's plan is a start. We got \$2.5 million from the Appropriations Committee last year. If we can get another \$2 million for Senator Carlson's plan we are headed down the road. I've been in your seat, I've spoken too long and I want to get home. By the way, I miss the people, I don't miss dealing with the issues and the problems. (Laughter) So but it's good to see you. [LB701]

SENATOR LOUDEN: Thank you, questions for Senator Schrock. Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden. Senator Schrock, it's a privilege to follow you. [LB701]

ED SCHROCK: It's a privilege to have you follow me, Tom. (Laughter) Tom and I grew up about 6 miles apart and used to go to bible school together and he's my brother's classmate. I'm glad to have him follow me. [LB701]

SENATOR LOUDEN: Senator Kopplin. [LB701]

SENATOR CARLSON: I'm not done. [LB701]

SENATOR LOUDEN: Oh, you're not done? [LB701]

SENATOR CARLSON: You bring up the Elwood Reservoir and I agree with you. That would be a wonderful place to be putting some water with an overflow from the South

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Platte and we just need to figure out how to make it happen because it would be great for Central, it would be great for the Republican Basin. I appreciate that comment. [LB701]

ED SCHROCK: Well, I've encouraged the committee and the Department of Natural Resources to look into that. And maybe it's time to make some more sacrifices and help out a little bit and that's one way you can have an immediate impact and help. [LB701]

SENATOR LOUDEN: Senator Kopplin. [LB701]

SENATOR KOPPLIN: Is it true that your wife caught a bigger tarpon than you did? (Laughter) [LB701]

ED SCHROCK: Senator Kopplin I'm not going to go there (laughter) but if you come out and visit me this summer, I know a guy that will take us muskie fishing, if there's still any left in there. [LB701]

SENATOR KOPPLIN: Okay. Very good, thank you. [LB701]

SENATOR LOUDEN: Other questions for Senator Schrock? Seeing none, thank you for testifying, Senator. [LB701]

LIZ MOLLENDOR: Your heart rate changes as you get closer. My name is Liz Mollendor, L-i-z M-o-l-l-e-n-d-o-r and my family and I live close to Imperial, Nebraska; we live closer to the state line. And I would just like to touch on the social and the local impact the bill will have. I'll be okay, I just get nervous, I'm sorry about that. Okay, I grew up in southern California about four hours from Las Vegas. My family loves Vegas and I can't stand it, I hate Vegas, I hate gambling, it's boring to me. But in the end, my perfect match was a big huge gambler; he's a farmer. And many of you are farmers and you understand, you gamble everything; all of your inputs every year. And like somebody else commented all your assets are stored outside on top of that. All of your inputs go into your entire crop and you don't see anything until the end, and that's if you market it well too. One thing, one bad decision along the way can take your feet out from underneath you. Many things are out of our control, many. The weather is one of them but this compact is another. The Republican River Compact has to be, we have to come into compliance with that, there's no question. But it will not...if it's done the wrong way it will not only take out the farmers, it will take out communities. Senator Schrock commented earlier that farmers and irrigators are assets and I'd like to see that protected. It is true and it is a big percentage of this state's income that we're dealing with. I would just ask that you would seriously consider the lives of those of us in southwest Nebraska as you make decisions that will affect our farms, our families, and our future generations. We have three children. Our fourth will be due in the fall and we would like to share our family's legacy with our children too. We hope that that will

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happen. We have purchased ground of our own which is going to be very difficult to do if our allocations are cut drastically where if the water is cut off especially we won't be able to pay our bill. So not only will the family farms but our community also, and we just ask that you please not let that happen. My family and I support the LB701 and we also applaud Senator Christensen for taking the efforts and initiative to work toward some sort of workable solution. It's not perfect but it is a step towards it and I understand it can sort of be altered and it does need to be altered; it's not perfect. But I do appreciate your taking the time to hear me, Chairman Louden, and also to the rest of the Natural Resources Committee. Thank you. [LB701]

SENATOR LOUDEN: Any questions for Liz? Well thank you for coming this far and testifying for us. [LB701]

LIZ MOLLENDOR: Thank you, and congratulations, I hear you have a new granddaughter. [LB701]

SENATOR LOUDEN: Well, thank you, I appreciate that. [LB701]

KURT ELDER: I will bring my green sheet up after I defend if that's okay? [LB701]

SENATOR LOUDEN: Okay, if the clerk says it's all right, you're home free. [LB701]

KURT ELDER: Oh, okay. Thank you. [LB701]

KURT ELDER: To begin, my name is Kurt Elder, that's K-u-r-t E-l-d-e-r and I hope to bring somewhat of a student perspective. I hope to be graduating soon, in May, and part of my dream is to return to southwest Nebraska so this is my statement and this is just in support of that, so. So I will begin. First, I want to thank the Chair directly and the committee as a whole for allowing me to speak today in support of LB701. As I begin with my statement, I feel the need to state that I was both born and raised and then initially educated in the Republican River Basin before my educational needs required that I leave...you weren't kidding, you get a little nervous up here. Moving forward, as I...I want to put in a little context based into how I, you know, got to this point. I have always had the dream to return to rural Nebraska and as I look back on my personal history I recount three paths that others have took just like myself. When I was in high school, you know, there were those kids who just dreamed of leaving and I'm like...I'm going to leave this town, I'm never coming back. People from rural areas kind of tested this, they don't how to stop it and sometimes they don't know how to understand it. But I was always the one that said, I want to stay. I love where I'm from. I love the people that made me who I am. As my education took me to various parts of the state from institution to institution, my educated peers questioned my commitment to return to rural Nebraska. Discussions of social and physical distress, local ties, community relations, and then community spirit, easily defended my position...simply I wanted to return.

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Third, as I come to the end of my formal education with the doors of opportunity wide open, I would still like to home. And why? I've been asked that a lot over the past few days. I want to give back to the people, back to the area and back to the progressive culture that helped me become who I am today and I am thankful for their support. So in summary, I have the desire to return. I want to return home to rural Nebraska and more importantly I want to return to a stable Republican River Basin. The problem we all face is in defining a stable area and it's the goal of the people here and of myself to define stable. Today's showing of testimony should go a long way to help in defining that standard. However for me, let's face the realities of student debt. And amid that if the entrepreneurial spirit and community structure displayed throughout the basin are damaged through poor public policy, then the dream that I have held onto would not falter, but would damage and degrade the motivation for a number of others. I want, and can, make a difference but I need their help. Please embrace the added potential that the Republican River Basin has yet to offer the Nebraskan's spirit and then their willingness and dedication to attempt to finance theirs. I believe that this bill will both support the state's needs and desires to attempt to stay in compliance and will help the reasons desired to move forward with a confidence so that they can move forward. Please support and move LB701 forward with your support and I thank you for your time and your patient ears. I'll gladly answer any and all questions should you have them whether they range from prior education to my motivations to return. I will try my best. [LB701]

SENATOR LOUDEN: Questions for Kurt? Senator Dubas. [LB701]

SENATOR DUBAS: Senator Louden. Thank you, Kurt. You remind me of my son. [LB701]

KURT ELDER: I hope it's a good thing. [LB701]

SENATOR DUBAS: It's a good thing, it's a good thing. My son wanted to do nothing but farm and it's not an easy thing to get into and because of him is why I'm here and I think that's why a lot of the rest of us are here is because we want a future for you. And I don't know if this is the answer or parts of it are the answer, but I appreciate you coming here and your willingness to share your feelings. And so any suggestions you have for us, I'm open. [LB701]

KURT ELDER: Just a quick question. Knowing your last name is Dubas, I know a couple of Clints, Clint Dubas's, that they attended... [LB701]

SENATOR DUBAS: That's my son. [LB701]

KURT ELDER: Oh, okay. I know Clint then... [LB701]

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SENATOR DUBAS: You are not supposed to ask the questions, but...we'll talk out in the hall (laughter). [LB701]

SENATOR LOUDEN: We ask the questions...(laughter) [LB701]

SENATOR DUBAS: I do just want to thank you. I know it takes...it's hard to sit in that chair and so thank you. [LB701]

KURT ELDER: Okay, thank you so much for your time, I appreciate it. [LB701]

SENATOR LOUDEN: Thank you for testifying. How many more testifiers do we have out there? Okay, pretty quick you guys are going to have to go a little bit faster because we've went on this for quite a while and there could be some opponent testimony so we are going to cut it down to about two minutes here, so be quick. [LB701]

STEVEN GRAMS: (Exhibit 18) Okay. Director, my name is Steven Grams, G-r-a-m-s. I do have a letter of submission so I'll be brief. I just have a few comments. Certainly, certain things have gone through my mind as testimony has gone on today, actually didn't realize for my first legislative hearing that it could be so fun. A lot of laughs on some cases. So as I said, my name is Steve Grams. I've spent a lot of time with Mark so when I submit this letter it's certainly out of the love in my heart for him and his efforts and what he's trying to do for our district. I've spent a lot of time on the road with him and I speak with him on the phone frequently. I do attend NRD meetings in the Upper Republican and try to stay somewhat abreast of issues in the Middle and the Lower as everybody's affected in the Republican River Basin. I guess if there is one thing that I just really want to point out is that in all my time with Mark, traveling and working on ideas that would help deal with our water issues, it's always been about trying to be efficient and trying to be effective. And I think that's probably just part of being a farmer, which Mark is. And I think you see that in his original LB701. There was some efficiencies and they, based on what we've seen so far, might proved to be more effective than what's taken place so far. But another thing that's always mattered to Mark is, I think, a plan that was fair and that brings me to--we've heard a lot of testimony today and some discouragement about maybe allocations changing as you move further east and Senator Carlson, for the record had mentioned that he couldn't support those allocations. For the record, the people in the Upper Republican don't agree with their average rainfall either but I don't know how we can check the constitutionality of that, so. But ultimately, I think that when you look at his amended bill, or changed bill, it is out of the concern for fairness for farmers and the communities in the 44th district. Certainly there is people that like the original LB701 and certainly there is a lot ways that original bill could have been used in ways that didn't really represent his true purpose for that bill. [LB701]

SENATOR LOUDEN: Can you finish up here? [LB701]

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STEVEN GRAMS: We're done. [LB701]

SENATOR LOUDEN: Good. Any questions for Steven? Thank you, Steve. I might add that the overflow crowd, if there's proponents for this bill, they should probably come to this hearing room at the present time, if there are any proponents for LB701 in that overflow room. Go ahead, sir. [LB701]

WESTON FURRER: My name is Weston, W-e-s-t-o-n Furrer, F-u-r-r-e-r. I'm a retired, I'm going to say, farm manager. I spent 40 years with Farmers National company from peon to president and I've always been very conservation-minded in soil and water conservation. In fact after I retired my company established an award called the Wes Furrer Conservation Award which they give to a farm manager who does excellent conservation work. My wife and I own some land in the Lower Republican in Nuckolls and Webster Counties. We have tried to be very conservation-minded by--one of the farms had as some of you know what bench leveling is, it's bent where it used to irrigate level land--if you had a hill you could make benches and level and irrigate that. By buying a center pivot, taking the benches out, we used a lot less water. We have on all of our pivots, gone to the drops, we got some of that spit water up in the air. We've gone to the drops and are as conservation-minded as we can be. I guess I might add is that I have served on the Lower Platte South NRD board twice and on the Salt Valley Watershed before they had NRDs. I like Senator Carlson's idea of having 8 or 9 inches of water in Nuckolls and Webster Counties. That's what we have used the last couple of years and raised a good crop. And we would appreciate having that much. We could get by with 8 inches on a year like this when we've got some good rainfall. I might mention that on this one farm, the Bostwick Canal goes through the farm so we've got the benches on one side and gravity on the other. We have an allocation of 22 acres; I've had no water from the Bostwick--we pay the O and M, operation and maintenance charges but have had no water for the past five years. I would like to mention that Senator Hudkins and Senator Wallman both have had some connection with my company, Farmers' National Company. [LB701]

SENATOR LOUDEN: Questions for Weston? [LB701]

WESTON FURRER: Questions for Wes. [LB701]

SENATOR LOUDEN: Senator Wallman. [LB701]

SENATOR WALLMAN: Glad to see you here, Wes. We've known...my father and Wes have done business for a long time on one particular piece of real estate and good to see you. [LB701]

WESTON FURRER: Thank you. [LB701]

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SENATOR LOUDEN: Thank you for... [LB701]

WESTON FURRER: I wanted to mention, I happen to be in Senator Nantkes' district and I walked by her office and I left a message for her to support LB701. [LB701]

SENATOR LOUDEN: (Laughter) We won't hold it against you. [LB701]

WESTON FURRER: Do I have to say whether or not I voted for her? [LB701]

GALE LUSH: Good evening. My name is Gale Lush, G-a-l-e L-u-s-h. I'm happy to be here Senators, Chairman Louden, Senators. I'm representing the Nebraska Farmers Union. We had a board meeting and the sense of the board was that we would support old LB701 because our president who had some fact-finding over the last few weeks, had come to the conclusion that water augmentation through inter-basin diversion was one of the best tools that we had available outside of regulating farmers into economic disaster. That is the only authority I have. The board has not looked at the new bill, LB701, but I personally have some comments on it. I've looked at some of the allocations and I've noticed that the allocations within counties have been equalized. In the past--I was at the meeting where the DNR director, Ann Bleed was participating with Governor Heineman to break the bad news that the people in the quick response areas might only get 2.8, 2.48 inches while the people in the upland wells which have very little effect on the river would be cut back 15 percent to 9.6 inches. I understand that they were very upset with that thing and it looks like it's been equalized under the Correlative Rights Doctrine or the share and share alike, or we all are in this together, so we each get an equal proportion. That's fair within the county but when you go from east to west you got 6 inches in Nuckolls and 11 inches in Lincoln and we had one testifier already that's said they've had serious declines in some of those counties, I've heard as much as 100 feet and seen that in the Omaha World-Herald editorial or layout a couple of weeks ago. There's some serious declines in those areas, but if we are going to go to some type of a market system as the new LB701, and I'll have to preface that again that it's my opinion, and it's the new LB701, then I think we should go back to the beginning and just divide up the water evenly amongst all the participants and if Senator Carlson says that's 9.9 or 10 inches, I guess that would be the fair way to do it because I know the quick-response people didn't like it when they were only going to get 2.8, and I can understand why Nuckolls County didn't like it when they were only going to get 6. And if this is...if we're not operating under first-in-right, first-in-time, we're basically, it's kind of the village common. And if we are going to divide up the village common then if 10 inches or 9.9 inches is the allocation then that's what it should be. And if there's going to be a market then we start marketing, or transferring those allocations amongst ourselves. But I guess as far as conservation, we've talked a little bit about that. The Farmers Union would not support reduction of conservation measures at all. I know that we do not have to have a board meeting to find that out;

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that would be something that would go completely against their philosophy. Conservation has been a good thing for people in the Republican River Valley. I know I didn't support meters in the beginning; then when we put them on I found out that we were a lot better farmers than we ever had realized. We were operating on less water than we thought was ever possible. And so some change isn't all bad and if we have to make some sacrifices that's fine. I just want to make the senators of the Natural Resources Committee aware that not all of us contribute to the problem at the same pace or the same amount. Where I live in Wilcox and Holdrege area, the upland well area, according to the COHYST report we only affect the rivers, either the Platte or the Republican, about 2 to 9 percent and that's over 40 years. That's a very minimal amount and I'm willing to do my part as far as sacrifice because I do not want to go to a federal judge and face the chance that we will have all irrigation shut off. That would not be good for anyone, but at the same time I think if we're going to be fair, let's just figure out what's in the pie and divide it up. I think Senator Carlson has got a good idea and I hope his math is off a little bit, it's actually 11 inches, but I'm afraid he's probably right. Those are the only comments I have for today. To summarize, I guess as far as the new bill if we're going to make allocations the same, north, between those quick response and the upland wells within the counties, then we got to make them the same from the eastern counties like Nuckolls which is only being proposed to have a 6-inch allocation to the western border counties are near Colorado that are proposed to get 11 inches. We all own part of this resource so if we're going to divide it up let's divide it up equally.
[LB701]

SENATOR LOUDEN: Any questions for Gale? Seeing none, thank you for testifying.
[LB701]

GALE LUSH: Sure. [LB701]

TERRY ANDERSEN: My name is Terry Andersen. I live three miles from the Colorado border. I moved into Nebraska in 1997. I left a job in Colorado that I was the highest paid hired man because I wanted to raise my family and start farming on my own in Nebraska. I would like to support LB701, I guess more of the green version. I'm not real sure of how far Senator Christensen is promoting any kind of a transfer but watching what Colorado has done with moving their water in their state makes all the sense in the world to me and I'll just give a real brief...because I know we need to be short. Up until March 1, between October 31 and March 1 of the next year, they do not have to let a drop go by into Nebraska. And what they're doing is they're sinking wells in the center of river beds, they are taking water out of their reservoirs and they are putting them into augmenting ponds. They've been approximately the same drought that we have in the last eight years that this has been going on; they've dropped their water level zero, absolutely zero. And if you don't believe me you can look at [Colorado Hydrology](#), look on a search engine, perhaps [Yahoo](#), you can go right to their site. They're very proud of this. Some of the people that weren't doing what they said, I went up and saw an order

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that was on the panel: cease and desist. Now I certainly hope we don't have to empower the Legislature to go out and start doing that. I think we can do this at the NRD level. My thing is I would like to see Mr. Christensen and you folks be very open to the possibility of transfers. I think when you look at them pretty hard--whether or not it's going to work, who know? But let's not go to the plate hoping they walk us through, let's grab a bat and at least take a swing at some things. I'm just like other folks here, I want to hand my kids down the farm but they need a glass of water to drink, but I want to make sure that they have something, a viable deal. I don't want to get it down to 6 inches where we can't do anything with it. And I understand that there is going to have to be some cuts but I think that if we could possibly do some transfers and look at other things that other states are doing which I think is miraculous, I think we can do a lot to save where we are at. Senator Louden is going to know this gentleman I'm sure, he's from Scottsbluff, his name is Hod Kosman, he's a very much proponent of water. And what he told us at a LEAD seminar is was is that the county above him had 800 and the county below him had 1,600 and without irrigation he would not only be in the middle of them geographically, but he'd be there in the population as well. So I think any time that we start cutting it down without looking at other avenues, I think we could be of detriment to ourselves. I don't have a big title, I'm not representing anybody but myself but that's my opinion. [LB701]

SENATOR LOUDEN: Okay. Questions for Terry? I have one. When you say you're at the Colorado line, which part of the Colorado part of the line do you live near again? [LB701]

TERRY ANDERSEN: I'm on the very southwestern corner of Nebraska, more western than south, sorry. [LB701]

SENATOR LOUDEN: Okay, and how far from Kansas? [LB701]

TERRY ANDERSEN: I'm on the Colorado border not Kansas, I'm quite a ways from Kansas. [LB701]

SENATOR LOUDEN: You're up around the Panhandle then? [LB701]

TERRY ANDERSEN: Well, no I'm below the Panhandle. I'm straight west of Imperial. [LB701]

SENATOR LOUDEN: Oh, okay, yeah. And you said that Colorado...then the water that comes by you comes on the...is the Republican River or which...how? [LB701]

TERRY ANDERSEN: I'd be in the Republican River Basin. [LB701]

SENATOR LOUDEN: Yeah, okay and that's the one that they're sinking the wells in?

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[LB701]

TERRY ANDERSEN: The Platte is where they're sinking the wells in. [LB701]

SENATOR LOUDEN: Up in the South Platte? [LB701]

TERRY ANDERSEN: Yes. [LB701]

SENATOR LOUDEN: Okay. And then that was off the South Platte where they shut what, 1,400 wells off? [LB701]

TERRY ANDERSEN: That was above them who did not comply. Some people had sold their water, rented the ground back out and they knew they could pay an \$80 fee and they may get their water back and they may not, if the landlord had already sold his water. If you pay me an \$80 fee you got a chance at losing your water. Some of those did it; others were not augmenting to what the state has regulated them, and yes, those were shut off. [LB701]

SENATOR LOUDEN: Now in Colorado the water goes with the land? [LB701]

TERRY ANDERSEN: Yes it does. [LB701]

SENATOR LOUDEN: And in Nebraska why it's everybody share and share alike for groundwater, right? [LB701]

TERRY ANDERSEN: Well I will back that up saying that Colorado is the same way. It's everybody's water whether you live in downtown Denver or whether you live in the very eastern tip of it. [LB701]

SENATOR LOUDEN: But you can sell your water off your property or whatever they do... [LB701]

TERRY ANDERSEN: Yes you can. [LB701]

SENATOR LOUDEN: Okay. Thank you. Other questions? Thank you for testifying. Go ahead. [LB701]

MIKE DELKA: Senator Louden, committee members, my name is Mike Delka, D-e-l-k-a. I am the manager of the Bostwick Irrigation District in the eastern portion of the Republican Basin. And it is the position of our board that they are in favor of any activities that would enhance the water supply of the basin. And I will not go into a lot of personal feelings on that, but I would like to commend many of you senators who have at least acknowledged that there is surface water out there, even though there is

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nothing we can tangibly hold. Okay. [LB701]

SENATOR LOUDEN: Okay, questions for Mike? Seeing none, thank you for testifying, Mike. Is this the last proponent testifier? Got one more? You're a proponent? Okay, is this the last proponent, though? Okay, I was going to say if nobody's in the chair then I'll call for opponents. Okay, go ahead. [LB701]

JEFF WALLIN: My name is Jeff Wallin, J-e-f-f W-a-l-l-i-n. I am currently a director on the Upper Republican NRD, however I am not speaking for them at this time, I am speaking as an individual. First of all, I would like to address Senator Carlson's comments as well as some of the previous people about the allocations. I guess I'd propose a trade. You give us more rain, we'll give you more allocation. Because currently the way it works out is we get far less rainfall, therefore if we're going to be equal on that plane, we need a higher allocation than you guys. The second thing that I would like to address is this, in my opinion, is a state problem. I think the state signed the agreement, they got us where we are at now and the state has plenty of water. Millions of acre-feet flow out of this state every year. I think we need to get some plans together to move the water around to where it is needed. And in fact Senator Louden, I think we could help your area out too if we get some of these plans in place. Third, I believe that up to this point the irrigators have taken most of the blame. Other causes are talked about but the irrigators have been asked to shoulder all of the economic burden to this point. I guess we as irrigators, at least in my area around Imperial, we're already deficit irrigating. We have been able to deal with the allocation reductions that we've been dealt so far. But at some point those cuts will be too deep and they will cause economic hardship if not economic devastation. I agree with Senator Fischer that we need local control over our groundwater. And for those who don't know, currently DNR recommends what our allocations be. In fact there's been quite a little press recently about what they recommended in McCook. And so then they also have to approve the IMPs so there is already state input about what those allocations should be. And in response to some earlier testimony from Mr. Friehe that the NRDs haven't or can't do their job, we have made cuts. And as we saw on the chart earlier, our consumption is going down. The problem is our allocation is going down faster. So to say that we haven't or don't have the ability to do our job I think is a misrepresentation. The last thing that I would like to address is it was earlier talked about retaining and attracting young people. Well I believe that some of the things that are talked about as far as buying out of irrigation rights, the CREP program that's already been implemented, and just in general, any kind of shutdown in irrigation is going to affect our young people disproportionately because those generally are the people who don't own the land. They come back and they're trying to get started, they are renting ground, they're highly leveraged. When we buy out or reduce their allocations or completely take that away, a lot of those payments go directly to the land owners and then the younger generation that's trying to farm that ground either loses that or loses their ability to make the payments on the loans that they have to operate with. That's all I have at this time. Thank you for the time. [LB701]

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SENATOR LOUDEN: Any questions for Jeff? Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden. Jeff, thank you for your testimony. It's good that we live in a state where we can look one another in the eye and we can have honest differences of opinion. Share and share alike doesn't take into account rainfall. I know the one that's in charge of rainfall and I try and follow Him and believe Him. He does as he sees fit. And so I really have difficulty in how we can go from 11 down to 6 and that be fair. So we've just got an honest difference of opinion there but I appreciate your testimony. [LB701]

JEFF WALLIN: Could I just respond to that real quickly? [LB701]

SENATOR LOUDEN: No (laughter) unless there is somebody else that has questions. [LB701]

JEFF WALLIN: Okay, thank you. I appreciate it. [LB701]

SENATOR LOUDEN: Thank you. Is this the last proponent? Then I would suggest any...how many opponents do we have? Okay, four. Are there any opponents in the overflow room? If there are they can come here to the hearing room at the present time and we'll be ready for them because that will be next. Go ahead, sir. [LB701]

LEE CARSKADON: My name is Lee Carskadon, L-e-e, Carskadon, C-a-r-s-k-a-d-o-n. I farm in the Republican Valley between Edison and Arapahoe and just about half a mile from where Mark Christensen grew up. I've known Mark since he was a bulge in his mother's belly (laughter). So anyway, the point I would like to make about where I am at that irrigation is not an option, it is a necessity for us. A little history...I'm a third generation farmer on the farm where I'm at. In, well I don't know, probably about 1925 or 1926 my grandfather was irrigating about 140 acres from the Republican River. The '35 flood devastated all of that and screwed up all the infrastructure and the river changed its channel and really messed the farm up. So irrigation from the river became impossible. He drilled an irrigation well just west of my house oh, about 1940 and that thing was in use until the mid-50s when I moved the location a little bit. One of the things that has happened since 2002 we've tried to become as efficient as we can with irrigation water and many of us have gone out and invested in center pivots which I have done and that effectively is a self-imposed tax because I still got to make those pivot payments, I haven't got them paid for yet. And if you don't run water through those things, you ain't going to get them paid for. Another thing I'd like to make a point, we were talking about an even amount of water and maybe that's okay but you need to take into consideration that there's a difference in types of soil. And on my farm some places I can irrigate with 9 or 10 inches and raise a full crop. I got one pivot that I put in the CREP program a couple of years ago; it took a minimum of 15 to raise a crop. So one

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size fits all sometimes doesn't fit all. And I guess that I've run to the end of my comments. [LB701]

SENATOR LOUDEN: Okay, well thank you. Questions for Lee? Seeing none, Lee, thank you for testifying. [LB701]

LEE CARSKADON: Thank you. [LB701]

SENATOR LOUDEN: (Exhibits 19, 20, 21, 22) Okay, now we will go to opponents. And at the present time I will read in some letter of opposition. Rex Felker is in opposition to LB701. Erick Erickson, Jr. of Holdrege in opposition. Thomas Epling in opposition, and then the Nebraska Farm Bureau signed by Steve Nelson, first vice president, is in opposition to LB701. With that, go ahead, sir. [LB701]

JERRY KUENNING: Good afternoon or maybe good evening, Chairman Louden and members of the committee. My name is Jerry Kuening, spelled J-e-r-r-y K-u-e-n-n-i-n-g. I'm a third generation cattle feeder and farmer from north of Imperial, Nebraska. I served on the Upper Republican NRD for 25 years. I'm a member of the Nebraska Cattlemen and on behalf of thousands of ranchers, farmers and feeders from across Nebraska I come to you to speak in opposition of LB701. I would like to thank our local senator, Senator Christensen, for bringing this issue to the Natural Resources Committee for consideration and input. The matter of compliance with the Upper Republican River Compact is of dire urgency and will demand short-term sacrifices for all of us and quite possibly long-term sacrifice of a few. It is our intent and commitment as a multifaceted industry, local businessmen who associate because of our cattle, to be part of the solution. Nebraska Cattlemen legislative committee met on January 24 and voted to oppose LB701 on three basic principles. The proposed BAC create an additional layer of bureaucracy. The increased NRD level authority would raise property taxes. And lastly, Nebraska cattle members are adamantly opposed to the trans-basin diversion of water. Nebraska Cattlemen wish to compliment Senator Christensen with regard to AM476. It is a noble effort to craft policy that can be used in any river basin subject to interstate water compact. That being said, we are opposed to AM476 for the primary reason that Section 4(1)(a)(i) causes the Legislature to allocate water rather than the local NRDs. In addition, this bill allows for the sale and purchase of water between willing buyers and sellers. This practice, though not new, has never been enabled by state statute in the state of Nebraska. Our concern is that this bill does not facilitate any monitoring of such transactions. Nebraska has made a 30-year investment by local citizens working within the NRD structure to craft long-term water policy. This bill is a total shift of that policy direction. Nebraska Cattlemen are concerned that Nebraskans may be making significant water policy decisions during historical economic season influenced in large by high commodity prices such as the \$4 corn we're witnessing today. We are at a juncture where the value of water may very well exceed the value of our land. Nebraska Cattlemen believes that equal reduction of surface

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water use as prescribed in Section 4(1)(b) is a fair and equitable short-term proposal. However, in periods of drought, this action does not offer a solution to compact compliance. There's no description of methods for compensating holders of surface water rights for the 25 percent reduced allocation. Finally, Nebraska Cattlemen have concerns regarding the concept of change in net revenue. This precedence is dangerous in public policy, has no predictable cost, and appears to have no end in that cost. Section 4(1)(d) describes that DNR shall do with regard to riparian vegetation. Although we testified in support of said action in the previous bill earlier today, we voice concern over the finite mandate regarding the percentage of reduction without a reference to timeline. In addition, we pose the question: What if there's not sufficient private industry for the DNR to contract to achieve the mandated reduction? Section 4(1)(e) describes the augmentation as an option for achieving compact compliance. Nebraska Cattlemen have repeatedly stated that borrowing water from one location to satisfy the needs of another location are not long-term solutions. Section 6(1)(a) requires the department to review any proposals submitted assuming a payment of \$2,500. We suggest inserting language requiring that any requests be submitted in forms provided by the department. This should streamline the process by clarifying what information is required for both the person submitting the proposal and the department staff responsible for said review. Nebraska could support in concept many of the finer details within this amendment. It is our opinion that one thing this bill does not address is the needs of the funding and the needed revenue for compact compliance. Where is the money going to come from? Where is it going to go? We believe the NRD structure is the only logical means of collecting and disbursing the matching funds from the state as all citizens have a vested interest in this issue. Mr. Chairman and members of this committee, this Legislature has the potential to both benefit and harm the individuals, families, and even the communities. As I stated earlier, we are in dire times. The study period is over; we're in the classroom; we're taking our test. Now more than ever we need the wisdom beyond our years, the integrity at which our grandchildren will marvel, and the stamina to endure the criticism of what is right. We, Nebraska Cattlemen, are committed to being part of this solution. I thank you dearly for this privilege to share with you today and would be pleased to try to answer any questions. [LB701]

SENATOR LOUDEN: Any questions for Jerry? Senator Fischer. [LB701]

SENATOR FISCHER: Thank you, Senator Louden. Thank you, Mr. Kuenning, for being here today. You spoke about water transfers and selling water. And even though I realize your comments were addressed to the green copy instead of the amended copy, I'd like your thoughts on that. Nebraska Cattlemen is opposed to any water transfers. Is that correct? [LB701]

JERRY KUENNING: That is correct. I believe you have to realize that we live in a period of time where precedence of law is kind of the norm. Does this give Kansas the right to transfer the Platte River on down? It's a question that could be raised. I don't have the

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answers, but those things have to be looked at. There's a possibility of what Senator Schrock said is feasible. It has to be looked at. But let's be very cautious in how we do that in the transfers. And, yes, Nebraska Cattlemen oppose it. [LB701]

SENATOR FISCHER: I had another question. You said that Nebraska Cattlemen was opposed to the bill because of the increase in property taxes. Was that right? Yes or no. [LB701]

JERRY KUENNING: We are opposed to any increase in property tax. [LB701]

SENATOR FISCHER: But yet you later said that the NRD structure should be the tool to collect and remit funds. [LB701]

JERRY KUENNING: This doesn't have to be a property tax increase. [LB701]

SENATOR FISCHER: But for the NRDs... [LB701]

JERRY KUENNING: Excuse me. [LB701]

SENATOR FISCHER: ...in order to do it, wouldn't it have to be a property tax increase with the NRDs having an increase in their levy for them to be chosen to remit the funds? Or why would you support having the NRDs do it? [LB701]

JERRY KUENNING: There are many tools to be available in our toolbox. [LB701]

SENATOR FISCHER: (Laugh). [LB701]

JERRY KUENNING: One of them is a property tax. The other one is an assessment of land tax. It was mentioned earlier the possibility of the checkoff type system. But the one tool we are missing today for compact compliance and to reimburse the people that are having to make the sacrifice is money. If you're going to idle surface irrigators, they need to be compensated. And where does that money today come from? Where do the NRDs have that available money to work with? We don't have. [LB701]

SENATOR FISCHER: Well, that was my question to you. [LB701]

JERRY KUENNING: And my answer is there's several tools. [LB701]

SENATOR FISCHER: How about another tool being if the state is going to appropriate money for this area, would you still want the NRDs to be the ones that would have the authority over the funds and have also the responsibility and the accountability? Would you want the state to have the money...have the funds if we appropriate any flow through the NRDs? [LB701]

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JERRY KUENNING: Yes, I would, dear. [LB701]

SENATOR FISCHER: Okay, thanks. [LB701]

SENATOR LOUDEN: Other questions? Seeing none, thank you for testifying. [LB701]

JERRY KUENNING: Appreciate it. Thank you. [LB701]

CLAUDE CAPPEL: (Exhibit 23) Senator Louden, Natural Resources Committee, my name is Claude Cappel, C-l-a-u-d-e C-a-p-p-e-l. I'm from McCook testifying against this bill. I think there needs to be some bill. I was on Governor Johanns' and Governor Nelson's state water policy for the Republican Basin going through the negotiations. I'm also on the Water Task Force, but I'm speaking as an individual. The intent of any legislation should be to treat all water users fair, reasonable, and nondiscriminatory. This bill does not do it. It is saying it's okay to take someone else's water rights in the name of economics. The Legislature should be concerned with the equal rights of all of its citizens, and not a majority of a single category of beneficiaries of the state's water resources. The water belongs to all the people of Nebraska for their beneficial use. Beneficial use is also recreational use, surface water irrigation, and wells in marginal areas. This bill will allow the drying up of the water for those users. There is a problem that was caused...this is a problem that was caused by the state of Nebraska in the passing of LB375 in 1982. The state gave the overlying landowner the ground water underlying his or her land that was already appropriated to surface water irrigation districts and had studies showing their consequence. It did not provide for any enforceable way to protect the correlative rights of other landowners when the ground water supply is insufficient for other users. The bill also stated: The Legislature determines that the goal shall be to extend ground water reservoir life to the greatest extent practicable, consistent with the beneficial use of the ground water and best management practices. There was no provision for protection of surface water. It encouraged the depletion of the aquifer. The bill put NRDs in charge of ground water and DWR, later becoming DNR, in charge of surface water. Since the passing of that bill, DNR could only recommend to the NRDs. The NRDs have been very reluctant to do anything DNR recommends in order to protect surface water. The basin NRDs did receive authority with the passing of LB108 in 1996 to adopt an integrated management plan to retain surface water flow. When funded in 1997, the Republican River Basin NRDs started a joint management plan. After Kansas filed suit in 1998, the Nebraska Attorney General put a stay on the NRDs doing anything to curtail new irrigation development. The reason was it would show a sign of weakness toward Kansas and the state wasn't removed until sometime in 2002, but the last district to go in was December 16, 2002. Even now at the Water Policy Task Force meeting last March, Dave Cookson with the Attorney General's office stopped Robert Ambrosek, Jack Maddux, and Claude Cappel, each being a Republican River Basin irrigator, plus Ann Bleed from trying to

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have the Republican Basin become sustainable. At the Water Policy Task Force meeting August 23, 2006, in Kearney, Dave Cookson said: I cannot make this any clearer. You will not discuss Republican Basin issues and dollars. Any further discussion will take place from the agencies that can actually do something about the issues: DNR, NRDs and AG. The Republican Basin NRDs circumvented the intent of the settlement, allowing thousands of new acres to be added after the settlement and should be held accountable for that action. Prior to that settlement, the state of Nebraska should be responsible for the shortfall of meeting the compact. Any landowner who wanted to irrigate and cannot because of a moratorium, any business who depended on water recreation, surface water irrigation, or people whose wells had been dried up are not going to look very favorable toward paying additional taxes in order to keep the people irrigating who depleted the supply of the aquifer. If the state justly compensates those people, it wouldn't be as painful. Let the NRDs meet their financial requirements with the taxation authority now in place. Place on a state assessment per acre or per acre inch on all irrigation in the state to get sustainability in the state. Keeping the basin in compliance and being sustainable mean two totally different things. In compliance you can keep depleting the aquifer, which will dry up the streams, rivers and dry up wells outside of the abundant aquifer boundaries that do not have the depth of water saturation. This can continue until surface water is all gone and only those over the deepest aquifer are still pumping. By drying up streams and rivers and wells, a basin will become sustainable. We will be like Texas, Oklahoma, and Kansas. The Arkansas River was the fifth largest river in the United States is now virtually dry to Wichita. Do we want this for our state? A basin should be sustainable while meeting its compact and other agreements, otherwise the lag effect compounds. The question is at what level do we set sustainability? Surface water irrigators have lost their water for appropriated surface water rights are now having their rights taken away for a second time as their wells dry up. A better plan would be for the Legislature to put legislative mandated guidelines that DNR can direct and enforce, preferably by basin and the NRDs would carry out the intent of the legislation. The liability of meeting the compact and agreements is the state of Nebraska's responsibility and where the liability will rest. Until there are penalties for legally circumventing or not following the legislative intent, circumventing will continue. A note of caution: Around 1980 Frenchman Cambridge, Hitchcock and Red Willow and Frenchman Valley Irrigation Districts spent quite a bit of their time and money trying to transfer water from the South Platte to Enders. DWR and the state stopped this from happening. Ironically, in just a few years the South Platte went basically dry and has been since. Not getting that permit was the best thing that happened for those irrigation districts as their patrons would still be paying for it. Somewhere there has to be common sense applied. Do what correlative rights mean and that is all share in the shortage...equally in the shortage. The sooner we get sustainable the less pain there will be in the future. I have a few more comments on the last page, but this is basically what I have to say. [LB701]

SENATOR LOUDEN: Okay, thank you, Claude. Questions for Claude? Thank you for

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your testimony. It gives us quite a history lesson. Thank you again. Next opponent.
[LB701]

LUCAS HAAG: (Exhibit 24) Good afternoon, Senators, or good evening rather. My name is Lucas Haag, L-u-c-a-s H-a-a-g. I'm from Bartley, Nebraska, which is located within Red Willow County. My comments are going to diverge somewhat from the written testimony I've provided you in response to some of the other things that have been said today. This evening I speak to you in opposition of LB701 and its current form of AM476. I have several key concerns with the bill and the water management philosophy that it promotes. The original bill was a flawed plan in my opinion, and the current amendment is basically a shell. The first thing I'd like to address is when we get into talking about conservation, and I wish Mr. Smith's pictures were still on the board. I'm not sure what previous speakers were alluding to, but if anyone leaves this room under the allusion that conservation retained water only in the state of Kansas, I'm afraid they're naive. The same conservation procedures which were implemented through a federal mandate were applied in all three states--Kansas, Nebraska, and Colorado--respectively at the same time. And thus, all three states share and share alike in the effects of conservation and its impacts on stream flow. And I think for that reason, conservation was left out of the Republican River Basin model except for one exception dealing with evaporation from nonfederal storage. As we get in with conservation, I think what it appears to me is the attempt to allocate 65 percent of the responsibility to conservation is a method to shift blame so that it can be paid for by the taxpayers of the state. I think another problem with that is, is that 65 percent does not take into account the conservation being caused by Colorado and Kansas. So in essence, the people of this state would end up paying for the conservation measures implemented across the entire basin. If it is desired to allocate blame to conservation, it can only be effective if corresponding adjustments are also made to the accounting of recharge. It is not said by anybody today except asked by a senator's question about that impact. Allocation to conservation without considering the benefits provided to the recharge rates are inaccurate. The action of partitioning essentially shifts blame to a component that is largely exempt from the basin...from the compact administration calculations in Nebraska's current over/under use of basin waters and is misleading. If we was to think of this in the framework as if was to do away with conservation practices and we was going to transfer that water retained by conservation, the other component to that is, is on that picture of the field that was shown, an inch of water if we're talking...everyone loves to talk about economic benefit, that inch of water has more economic benefit conserved on that dryland field than it would be transferred as a thirteenth inch of any irrigation regiment. And because water is a declining input, and that inch of water will produce more bushels of corn per inch of water at that point on that dryland field than it will just a thirteenth inch in any irrigation setup. And so if we want to talk about economic benefit, then let's talk about what the economic benefit of grain production from conserved water is as well. My second concern with LB701 is the concept of an annual state initiated water purchase program. LB701 initiates a program

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whereby the state has the ability to purchase water at a change in net revenue cost, which is not defined as to whose figures is going to be used. And that's a question that must be addressed. Is it going to be one value for the entire basin, one value per county based on NASS statistics, or is each producer going to be able to submit their own cost structure and historic proven yields and receive their own individual payment? The net returns between dryland and irrigated production are not constant across environments nor producers. The implementation of such a program neutralizes management and essentially creates a subsidy for those producers with relatively poor management ability, as they have the opportunity to generate the same net returns as average or better than average managers. Depending upon the structure, the program also basically presents a 100 percent guarantee crop insurance policy for no premium cost and no risk assumed by the producer taking the payment to go from irrigated to dryland. So it's always brought up, what are our policy alternatives and what do I feel is a possible way out of this situation or to deal with it? And it's been stated here already today and I believe that most irrigators would agree that doing nothing is not an option as they fear complete loss of access to the water. Reductions in consumptive use not only help prevent such a legal scenario of complete loss, but also prolong the usable life of the aquifer, a fact that is commonly forgotten. Thus, the producers who continue to irrigate benefit from the retirement of acres due to both effects, in addition to any past financial gains. For this reason, I believe an assessment on irrigated acres for the purpose of building a retirement fund is logical. This approach has been successful in the Republican Water Conservation District of eastern Colorado. First initialized in 2004, the district has assessed \$5.50 per irrigated acre, and according to a recent press release anticipate having \$5.5 million available for buyouts and EQIP cost share. I find it intriguing that producers merely across the state line in the Upper Republican find this concept acceptable. I concede, however, that local economies benefit from irrigation. However, they are not the first recipient of economic gains and contrary to beliefs held by some, would remain sustainable in an economic mix of limited irrigation, dryland cropping, and ranching. Thus, I do not believe that any significant portion of the financial burden should be applied to the nonirrigating general public of the basin as proposed by the property tax concept in the initial draft of LB701 or in the sense of an additional grain checkoff that would not be segregated between irrigated and dryland producers. I believe that the most equitable and economically optimal situation would be a reduction in allocations necessary to meet compact compliance in the long-term, coupled with the ability to transparently buy and sell water. Essentially implement a free market type program where water can be transferred as long as it does not hurt our stream flow values or raise our overall beneficial consumptive use. Such a system would allocate water to the most official users, would result in the highest water efficiency of use for the entire basin. I, too, would like to return to this region and have it be a stable but more importantly a sustainable agricultural economy. I believe that this can be accomplished with minimal government intervention. I think going to a free market type situation would allow people to make their own decisions with water and eliminate the harmful impacts of buyouts such as we've experienced with the CREP program. This concludes my

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comments, and I welcome any questions that I can answer. [LB701]

SENATOR LOUDEN: Questions for Lucas? Senator Carlson. [LB701]

SENATOR CARLSON: Lucas, thank you for your testimony. Did you say where you're from? [LB701]

LUCAS HAAG: Bartley, Nebraska. [LB701]

SENATOR CARLSON: Okay, Bartley. [LB701]

LUCAS HAAG: Red Willow County. [LB701]

SENATOR CARLSON: What do you feel about equal allocations or share and share alike? [LB701]

LUCAS HAAG: I think if we're going into this with a policy mind-set and our goal is that, okay, we make the argument that we're going to treat upland wells and quick response wells equally because we want it to be fair and equitable so is not equitable the opportunity for everybody within the basin to produce the same yield or the same gross product? And if that's the case, then I think allocations do need to be varied across the width of the basin because it takes...simply as a matter of climate, it takes more water in Chase County than it does in the areas below Harlan Reservoir. And so I mean we've already went down this road of making policy decisions to be equitable. And I think if that's our goal, then those changes in allocations are appropriate. [LB701]

SENATOR CARLSON: So that's what share and share alike means to you? [LB701]

LUCAS HAAG: I understand what you're getting at, and as far as share and share alike, but I guess I don't have a better response for that other than I think that if our goal is to be equitable in a producer's ability to produce a crop then we need to correlate the allocations respectively. [LB701]

SENATOR CARLSON: Okay. Thank you for responding to the question. [LB701]

SENATOR LOUDEN: Other questions? Thank you, Lucas, for testifying. Next testifier. [LB701]

DEAN EDSON: (Exhibit 25) Senator Louden, members of the committee, my name is Dean Edson, spelled D-e-a-n E-d-s-o-n. I'm executive director of Nebraska Association of Resource Districts. I wanted to...I was asked to present this letter to you. Jasper Fanning had originally intended to come in and testify on behalf of the Upper Republican NRD against LB701 with the amended version. And so I wanted to present

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that letter to you. Basically, the comments that he's made in here are the same comments that he made on LB458 where he outlined what we're trying to do with the Department of Natural Resources to address this issue. And that is that we need to look at various different management techniques such as riparian management, look at surface water leasing to get us through on the short-term, and also look at the funding issue. He laid out several funding options and we're open to any discussion on those with the interested parties to develop the state and local funding portion of this program to get the basin in compliance. I've also been asked to mention Farm Bureau had to leave, and I know that they wanted me to mention that they dropped a letter off with the clerk here to...in opposition of LB701. Any questions? [LB701]

SENATOR LOUDEN: Yes, Dean, we did get the Farm Bureau letter (Exhibit 22). Questions for Dean? Seeing none, thank you, Dean. [LB701]

DEAN EDSON: Okay. [LB701]

SENATOR LOUDEN: Next opponent. [LB701]

WILLIAM BARGER: My name is William Barger, W-i-l-l-i-a-m B-a-r-g-e-r. I'm not really against LB701. I'm merely kind of in a neutral position. I think it needs an awful lot of... [LB701]

SENATOR LOUDEN: Well, you'll have to testify a little bit later... [LB701]

WILLIAM BARGER: Okay. [LB701]

SENATOR LOUDEN: ...if you're in a neutral position. [LB701]

WILLIAM BARGER: Okay, I'm going to be in a neutral position. Okay. [LB701]

SENATOR LOUDEN: If you want to testify to that, we'll take that after opponents. Don't go too far because we may be out of opponents. [LB701]

WILLIAM BARGER: Okay. [LB701]

SENATOR LOUDEN: Are there any more opponents to testify against LB701? Seeing none, then, William (laughter). [LB701]

WILLIAM BARGER: Do you want to go first? [LB701]

SENATOR LOUDEN: (Exhibit 26) Okay, I'll mention at this time for the record that we have one letter in neutral from Ryal Meyer from Brule, Nebraska. Go ahead, sir. [LB701]

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WILLIAM BARGER: Well, I think this bill needs a lot of amendments or changes to work. My name is William Barger, W-i-l-l-i-a-m B-a-r-g-e-r. I live in the Middle Republican west of McCook. I've been selling water in the Middle Republican for about three years. I think if you want to talk about transfers and stuff, the Middle Republican's, the way they have that set up is an excellent way to look at that. You can only move alluvial into alluvial. The alluvial can be moved to the upland, but you cannot move the upland to the alluvial, which is similar to Smith's bill, but he's way too vague. I think you need to leave the control of what these allocations are and just the way they are right now with each individual NRD. I've been buying and selling water here for two or three years with the idea that the end of 2007 a lot of people that are doing this are going to roll 13 inches into the next allocation period. So how is that going to be affected that way? I mean is that going to be something that's going to be allowed? That's something they need to answer themselves. Something else, I think this thing with Kansas needs to be completely renegotiated. I think we might be running away from a wolf that's really just a puppy dog. Most of this water is worth about \$5 or \$6 an inch. If you look at the way they set up the EQIP thing, which figures out about \$62 a year, that's about five bucks an inch for 13 inches which is what our allocation was. That's how I arrived at \$5 an inch. So if you talk about being short 32,000 cubic feet to Kansas, if you multiply that by 12, multiply it again by 5, you're talking about \$1.9 million. Now you're talking about more than that just cleaning the trees up. Now there is a dollar amount that Kansas will settle for. There's no guarantee that this LB701 or any of this will ever keep them happy or ever put any water in the ditch anyway. It's ridiculous what some of these state and NRD funds have been used for, where they buy out surface water it's at who knows what price. Right below me is probably the oldest irrigation district in Nebraska. They gave 600 acres \$143 an acre not to use any water out of the Frenchman River. And then they gave the ones across the way in the other irrigation canal I think \$43 an acre. And they could still go ahead and pump their wells their 13 inches. Now that water never made it past Arapahoe. So when you start talking about transfers, unless you're going to put that surface water in some kind of a tube or something where it isn't going to soak away, I mean you got to have a plan here. This is the twenty-first century. Maybe there is some way you can put that in a big pipe and run it to Kansas. But I don't feel that Kansas has anything coming like everybody thinks. I don't think the federal judge can shut this thing down. He would have so many lawsuits against him that he wouldn't know what to do. And if...there's a dollar amount that they will settle for. If there's only 40,000 acres of flood irrigated ground in Kansas and there's 1.2 million in the Republican River Valley, get real. I mean if it was put into CREP it wouldn't be that expensive of a deal. The federal government and the state government need to cover the entire cost of this. They're the ones that put the lakes in. They're the ones that put all these terraces in. They stopped this 85 percent runoff. Man, we need to quit running around like a bunch of scared chickens and face up to Kansas. Let's go back to court and renegotiate it. This isn't 1943. The whole place is irrigated. This idea of the state of Nebraska going out and getting some ridiculous amount for some surface water that doesn't make it 10 miles from the dam that you turned it out of, what in the world kind of

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sense is that? If it isn't going to get to Kansas, let's don't be doing that. And that's all I have to say. [LB701]

SENATOR LOUDEN: Good. We was about to quit anyway. (Laughter) Any questions for William? Thank you for your testimony. And I hope you're testifying in a neutral position. [LB701]

ELAINE MENZEL: I am. [LB701]

SENATOR LOUDEN: Thank you. [LB701]

ELAINE MENZEL: Chairman Louden and members of the Natural Resources Committee, my name is Elaine Menzel, M-e-n-z-e-l, appearing in a neutral capacity on LB701. I'm here appearing on behalf of Nebraska Association of County Officials. If the amendment offered by Senator Christensen to LB701 is adopted by the committee, our initial concerns would be addressed. Our association has appreciated working with Senator Christensen and having him address our concerns. We will continue to monitor LB701 and work with Senator Christensen and committee members on this bill. The concerns in the initial bill were the creation of the basin-wide authority without a county representative, the additional levy implications, and the responsibility for upgrading roads. That's the only comments I have at this point. [LB701]

SENATOR LOUDEN: Okay. Any questions for Ms. Menzel? You're with... [LB701]

ELAINE MENZEL: Nebraska Association of County Officials, NACO. [LB701]

SENATOR LOUDEN: NACO. I guess where does NACO fit in on this, but I guess you...I guess I... [LB701]

ELAINE MENZEL: There were some property tax implications. [LB701]

SENATOR LOUDEN: Okay. [LB701]

ELAINE MENZEL: There was the potential for some road upgrades and that type of thing in there too. [LB701]

SENATOR LOUDEN: Well, thank you. Any questions? I guess I was the only one that had questions. My other comment is, yeah, I'd rather listen to you than Larry Dix so thank you. Thank you for testifying. [LB701]

ELAINE MENZEL: Well, I don't know if I'll relay that comment but I appreciated it. [LB701]

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SENATOR LOUDEN: Next neutral testifier. [LB701]

DEAN EDSON: (Exhibits 27, 28) Senator Louden, members of the committee, my name is Dean Edson, spelled D-e-a-n E-d-s-o-n, executive director of the Nebraska Association of Resources Districts. I've got two letters here, one from the Lower Republican NRD and the other from the Middle Republican NRD in neutral capacity on the bill. They outline their concerns in the previous bill, LB458. I ask if you have any questions. [LB701]

SENATOR LOUDEN: Okay. Questions for Dean? Thank you, Dean. [LB701]

MATTHEW FISHER: I'm Matt Fisher, M-a-t-t F-i-s-h-e-r, and I am the superintendent for Chase County Schools in Imperial. And first of all, I want to note that I'm very thankful that Chairman Louden and Senator Fischer are both allowed that they're Sandhillers. Growing up in Hyannis, I know a whole lot more about windmills than I know about center pivot irrigation. So I'm not going to talk a lot about water. Our school chose not to take a position on LB701. You've heard testimony on both sides from people within our district. And so we certainly felt like it was not the school's position to go one way or the other at this point in time. But I think the thing that I wanted to express to the committee was the very important nature of the whole water issue. And obviously that's been expressed in a number of different ways today. Mike Lucas, the superintendent from Franklin, talked about the financial implications and I think that they are huge. Looking at it from a school standpoint, that loss of valuation that we would see if the amount of acres that have been talked about were moved from irrigated to nonirrigated acres would have a devastating impact on our budgeting. And ultimately because of the way the budgeting and financial process in the state works, everyone would end up paying for that change in our financial position because as our ability to tax went down, certainly there would be somewhat offset by some state aid. You know, I think that as you look at this you can say, well, if we lost those acres you're going to lose people and we lose students. You're right about all those things. But I don't think that you would see an equivalent loss in students and the way that that would affect the financial needs of the students that remained. And so I think it would definitely have a very substantial impact. Mr. Nabity talked about the people in Omaha and that they should be very concerned about this issue because this is a state issue. And you know, I know Senator Hudkins talked about not wanting Omaha involved in this, but I think they do need to be involved. And I think that because Senator Carlson's bill and LB701 are the only bills that have been introduced that really deal with the water issue, I think it's incumbent upon this committee to put something together to advance to the floor so that this issue does get discussed. What it looks like, you know, like I said, we've taken no position on what it should look like, but we do feel like it's very important that something advance to the legislative floor. [LB701]

SENATOR LOUDEN: Thank you. Questions for Matt? Well, seeing none, another

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Sandhillier can go home. [LB701]

MATTHEW FISHER: All right. Thank you very much. [LB701]

SENATOR LOUDEN: Thank you. Is there any other one in a neutral position? Does anybody from DNR want to say anything in a neutral position at this time? [LB701]

ANN BLEED: Not unless you have questions, Senator. [LB701]

SENATOR LOUDEN: Anyone have questions for Department of Natural Resources? [LB701]

SENATOR FISCHER: Not at this time. [LB701]

SENATOR LOUDEN: Not at this time, so I guess with that if there are no more opponents, I'll close the hearing at this time. But Senator Christensen is not able to close. He had to go with his daughter in the hospital so we will close at this time. (See also Exhibits 29-33) And, of course, wish Senator Christensen and his family well. Thank you for being here tonight. Thank you for staying and appreciate your hard work. [LB701]

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Disposition of Bills:

LB458 - Advanced to General File, as amended.
LB701 - Advanced to General File, as amended.

Chairperson

Committee Clerk