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Agriculture Committee
May 21, 2009

[CONFIRMATION]

The Committee on Agriculture met at 8:00 a.m. on Thursday, May 21, 2009, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a confirmation hearing. Senators present: Tom Carlson, Chairperson; Annette Dubas, Vice Chairperson; Brenda Council; Merton "Cap" Dierks; Russ Karpisek; Scott Price; Ken Schilz; and Norman Wallman. Senators absent: None. [CONFIRMATION]

SENATOR CARLSON: I'm Senator Tom Carlson. Rick Leonard is our research analyst. Barb DeRiese is our committee clerk, and Haley is our page. Haley is from Homer, Nebraska, a student at UNL. To my right is Senator Dubas from Fullerton, and then Senator Dierks from Ewing; Senator Wallman from Cortland; Senator Price from Bellevue. And I think that Senator Schilz and Senator Karpisek should be joining us, but we'll start our hearing this morning, confirmation hearing. As testifiers come to the chair, please state your name and spell your name, and then as you testify, speak into the microphone. We don't have to go through rules of limitations on time. I think that we're going to be fine with that this morning. Like to ask the candidates, as you come forward, tell us a little bit about yourself and the position that you're assuming and give us any information that you think might be relevant to helping us with this confirmation hearing. So with that, I'll ask Al Berndt to come forward and we'll start our hearing.

[CONFIRMATION]

AL BERNDT: My name is Al Berndt. It's A-I and then B-e-r-n-d-t. I currently am appointed to by the Adjutant General of the state of Nebraska to the position of the assistant director of the Nebraska Emergency Management Agency. Then General Heng appointed me to that position in March of 2000. I've worked in the agency now a little bit over nine years. The Nebraska Emergency Management Agency, under the Nebraska Emergency Management Act, is charged with doing the emergency response preparedness planning, coordination, and then assisting with response within the state of Nebraska to those natural man-made and technologically called hazards. As a result of LB940, I believe two legislative sessions ago with the creation of the Department of Homeland Security and the appointment of the Lieutenant Governor as the State Homeland Security Director, we also administratively support the Lieutenant Governor in his role as Homeland Security Director. As such, I was appointed by Governor Johanns in 2001 as the state administrator for the Homeland Security grants that come to the state. And so, at this point in time, the Nebraska Emergency Management Agency is kind of a multifaceted agency in that we work with a broad range of first responders across the state--law enforcement, fire, public health, local emergency management agencies in carrying out the emergency management Homeland Security program. By statute, the Nebraska Emergency Management Agency, the Adjutant General, we have a seat on the climate assessment response committee. Since 2000, I have been attending the CARC meetings as a representative of the agency. Our main involvement is basically monitoring the weather conditions of the state and making sure

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that those response plans are in place at such point in time that assistance would be needed. In the past, we have participated very actively in things such as the Orphan Grain Train for the transportation of hay during the droughts. We maintain a list of water carriers for both fire response as well as potable water when we went through a lot of the water emergencies with the loss of water within the small rural towns and the water districts during the drought season too. We've also put in place at such point in time that the Governor declares it a declaration of emergency. Because of fire response, those assets that are needed to react to wildfires across the state. I like to tell people that the responsibilities of the Nebraska Emergency Management Agents, since we are a small agency of 36 FTEs, that we're charged with putting the system in place that puts the fire out. And we're very active in the 2007 fire season in response to the Valentine, Chadron, Harrison fires. I present myself for any questions that you have.

[CONFIRMATION]

SENATOR CARLSON: Okay, thank you. Any questions of Mr. Berndt? Senator Wallman. [CONFIRMATION]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yes, is your agency responsible like for roadside haying in drought conditions? [CONFIRMATION]

AL BERNDT: No. We only get involved in that we put up information on our web site with the Department of Agriculture, and then if there becomes a situation for the transportation of hay, that we have the ability to access or look for carriers in other states or through the Orphan Grain Train to come in and haul hay that needs to be transported. One of the things that we do do, in conjunction with the Department of Roads and also the Nebraska State Patrol, is the coordination of lifting of weight and length and driver limitations for the transportation of commodities across the state in response to both in-state and out-of-state disasters. [CONFIRMATION]

SENATOR CARLSON: Any other questions? Senator Dierks. [CONFIRMATION]

SENATOR DIERKS: Mr. Berndt, do you...when in this position, do you have anything to do with bio-security? [CONFIRMATION]

AL BERNDT: Only in the sense that we participate in the planning process with the Department of Health and Human Services, and then we work with the University of Nebraska Medical Center and the Center for Bio-Terrorism Education in helping put on conferences and training the first responders across the state. We also fund the ten...what we call the ten MOU HazMat response teams that are located in ten professional fire departments across the state, and that is the first line hazardous material, and could be the bio's--Security Bio-Terrorism response to a hazardous material incident. We keep ten MOU's in place with Beatrice, Omaha, Bellevue, Columbus, Norfolk, Grand Island, Hastings, North Platte, Red Willow Rural, and the

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Scottsbluff fire departments. [CONFIRMATION]

SENATOR DIERKS: So you have...what are you referring to when you call it MOU?
[CONFIRMATION]

AL BERNDT: Memorandum of Understanding. We have agreements in place at such point in time, a hazardous material or some type of chemical incident has exceeded the capacities of a local unit of government, and they request assistance from the Governor, and he grants, then; this is our first line where we go to get response capabilities. So we give them funding through some of the Homeland security grants every year.
[CONFIRMATION]

SENATOR DIERKS: Okay. I'm a veterinarian by profession, and I've been involved for some time with trying to find ways to get veterinary services to the western part of our state. It becomes more difficult every year, because the graduates from veterinary schools are 80 percent women now. And most of the women want to go into the practice of companion animals like dogs, cats, and maybe horses. It's difficult to get people in the large animal practice to settle in the Panhandle area, and it's not only Nebraska, but that's all over in Canada and Mexico. There's a strip of land down through there that has very low market with veterinary protection or service. So we're concerned about things like anthrax which could be part of a bio-security problem. And I just wondered how you would handle something like that with your Memorandum of Understanding, like in say, Scottsbluff. [CONFIRMATION]

AL BERNDT: Well, actually, on the State Emergency Operations Plan, we have annexes to the plan. One of the deals with the health side of the issue with Department of Health and Human Services, and then we have the Contagious Animal Response Plan with the Department of Agriculture. So our agency actually gives funding to the Department of Agriculture that keeps the veterinary...their veterinary response system in place in terms of the training. So we deal with that also in terms of those planning aspects. I hear what you're saying about vets. I'm a Kansas farm boy, and when I go back down to the farm, the veterinarian is the same vet that was there when I was a boy (laughter). [CONFIRMATION]

SENATOR DIERKS: That could have been my classmate (laughter). [CONFIRMATION]

AL BERNDT: Probably was (laugh). So we do work with the Department of Agriculture on anthrax issues. Specifically, on those MOU HazMat teams, they're all trained for decontamination in response to contagious animal disease event and plans are in place for that. In addition, we took funds from, I believe it was the 2003 grant year, and we placed hazardous material decontamination trailers in 26 other rural fire districts across the state, so that there's a baseline decontamination capability in place that could be utilized by any one of...I believe we now have 535 volunteer fire departments. So these

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26 are strategically placed, so that they could assist through the mutual aid agreements that are in place at the local level with decon issues, if needed. [CONFIRMATION]

SENATOR DIERKS: Thank you. [CONFIRMATION]

SENATOR CARLSON: Any other questions? Senator Price. [CONFIRMATION]

SENATOR PRICE: Senator Carlson, thank you. I just would let the board know this past weekend I was in Idaho at C'oeur d'Alene for a CSG meeting, and Mr. Berndt's name was mentioned there, sits on a national board for NEMA, and that he represented Nebraska greatly in what he does already, when I'm in Idaho. So I just thought I'd let you know people, you know, know him throughout the nation for what he does. And I just want to add that in. And you don't see that here; you don't see that in the discussion. So I thought it was a very nice thing. I was the only person from Nebraska there, and to have another Nebraskan mentioned, that was a great deal, so I was just going to say thank you, Mr. Berndt. [CONFIRMATION]

AL BERNDT: Thank you, sir. [CONFIRMATION]

SENATOR CARLSON: Senator Schilz from Ogallala has joined us since our hearing started. Any other questions? It looks like that the Climate Assessment and Response Committee has been meeting twice a year. [CONFIRMATION]

AL BERNDT: Correct. [CONFIRMATION]

SENATOR CARLSON: So, it's twice a year or as needed? [CONFIRMATION]

AL BERNDT: Um-hum (yes). [CONFIRMATION]

SENATOR CARLSON: Do you feel like that we're well prepared for what are emergencies? [CONFIRMATION]

AL BERNDT: Well, you know, I will say yes. I mean, I guess I have a biased opinion. But, you know, it's quite impressive when the CARC committee gets together and the university comes in, and Al Dutcher and the crew comes over and presents, you know, the short-term, long-range outlook on weather, what it's going to do, the integration with the Department of Agriculture and the USDA in terms of programs that are going on, activities that are going on. It's really pretty impressive, and the web sites that have been put together. We have a very good working relationship with regulation and licensure on water issues involving, you know, potable water to the communities that experience the problems with their wells in terms of both getting deliveries of water in and fixing the problems. We've had very good integration with the Governor over the past several years. Now this will be the second year in a row, but he's been very

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proactive in the past when we were in the height of the drought in putting a disaster declaration in place at the first of the summer, so that we were able to access funds and bring fire resources in to fight wild land fire. That was utilized in both Harrison and Chadron and Valentine, or probably, I would say that, if we had not had the ability to have the system in place already when the fire came roaring in through Chadron, we would have probably lost the college. And so, I think that there's a good working relationship; the Department of Agriculture does a very good job in managing the CARC. [CONFIRMATION]

SENATOR CARLSON: Good. Any other questions of Mr. Berndt? Okay. Thank you for your testimony. [CONFIRMATION]

AL BERNDT: Thank you very much. [CONFIRMATION]

SENATOR CARLSON: Is there anyone wishing to speak as a proponent? Anyone as an opponent? Anyone in neutral position? If not, that closes the hearing, and thank you for coming. [CONFIRMATION]

AL BERNDT: Thank you. [CONFIRMATION]

SENATOR CARLSON: Mr. Marshall, the State Fair Board, and welcome to our hearing this morning. Again, we'll ask you to give your name and spell it, and then tell us what we need to know about you. [CONFIRMATION]

WILLIAM MARSHALL III: My name is Bill Marshall. I'm from Grand Island, Nebraska. I've been president of the Five Points Bank in Grand Island since 1975. I was born in Niobrara, Nebraska. I was educated at UNL. I received a law degree from University of Nebraska. I practiced law in Omaha for a couple of years before we started the bank, and I've been in Grand Island since that time. As you know, the Legislature allowed the host city to have a representative on the State Fair Board, and the mayor of Grand Island asked if she could put my name in for this position, and I said she could. The Governor appointed me in January, and I've been attending meetings since that time. I've kind of enjoyed being involved in it. There's been a fair amount of controversy involving, first of all, the move to Grand Island. There was some concern about the way the contracts were, or I should say the bids were done on the building, but overall, I've been impressed with the way the State Fair Board has done things, and I think that they're progressing pretty well along the road to this change. [CONFIRMATION]

SENATOR CARLSON: Okay. Any questions of Mr. Marshall? Senator Dubas. [CONFIRMATION]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Mr. Marshall, for being here this morning. I think you are coming on-board at a very historic time in the State

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Fair, and while we don't know each other personally, I do know of your extensive involvement in the Grand Island-Hall County areas, and so you truly do bring an understanding of that area to the board which I think is important. And you did allude to some of the controversy, and I know there's a lot of excitement in the Grand Island area about the State Fair, but there's also the naysayers who are saying, you know, this was kind of forced on us, or now we're being taxed, and all of those other types of things. So how do you see yourself able to bridge some of those negative...and I...personally, I think it's kind of a local minority that is doing that. But yet, they still have to be...their thoughts have to be considered. [CONFIRMATION]

WILLIAM MARSHALL III: Well, any time that I speak to people about it, I point out that if you just remove the fair from the consideration. Grand Island is getting, you know, \$40 million worth of infrastructure that we wouldn't have gotten otherwise, and as far as the cost to Grand Island, the \$5 million of it is coming from a restaurant tax. You know, if people don't want to pay that tax, they don't have to eat in a restaurant. About \$400,000 or \$500,000 is coming from the keno funds. You know, if they don't want to gamble, they don't have to, and then about \$600,000 of it is coming from a...and it could be, I'm not sure those numbers are right. There's a million dollars coming from the county, and part of it is coming from the keno, and part of it is coming from an agricultural levy that, in the past, has been used for 4-H, I believe, but only a small...the levy has been a lot lower before. And I believe they just increased the levy to an amount that will fund this. And so, really, I try to point out that the cost to Grand Island is pretty indirect, and the benefits are really...really a great deal. I'm also in the hotel business, and there's the hotel owners must think it's a pretty good deal, because there's been two or three hotels announced. One has started, and there's probably going to be two more built, so it's I think the people who know about attractions like that think it's a pretty good deal. [CONFIRMATION]

SENATOR DUBAS: Well, I, for one, am very excited about the State Fair coming out into our area. I think we're going to see the rebirth of the State Fair. And I think Grand Island is up to the challenge, and people such as yourselves will make sure that that happens so. [CONFIRMATION]

WILLIAM MARSHALL III: Well, one thing that makes me feel pretty good about it is, you know, Husker Harvest Days has been so successful, and it seems to me like if we can attract 250,000 people to that, we can certainly do pretty well with the State Fair. [CONFIRMATION]

SENATOR DUBAS: Thank you. [CONFIRMATION]

WILLIAM MARSHALL III: Um-hum (yes). [CONFIRMATION]

SENATOR CARLSON: Any other questions? I had one and now I lost it. Now, when you

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get to be my age, you'll understand that. How do you see the plans having evolved for the State Fair and under the economic circumstances that we found ourselves, do you feel like we're going to end up...you're going to end up with a better complex out there than originally thought was possible? And, in fact, these economic times might have been a blessing in disguise. [CONFIRMATION]

WILLIAM MARSHALL III: Absolutely. I think the proposals have come in a lot lower than the estimates were, and, actually, I think there was some thought that they may have to eliminate building before they got their proposals. And I think now, they maybe are thinking of adding an administrative building and some...and a building to share with Game and Parks. And so, I think a combination of administration building and Game and Parks building. And so, I think it's going to be better than originally envisioned. [CONFIRMATION]

SENATOR CARLSON: In Grand Island's overall responsibility, part of that was the goal of a million dollars in cash and cash equivalents. [CONFIRMATION]

WILLIAM MARSHALL III: Right. [CONFIRMATION]

SENATOR CARLSON: And I think that's been surpassed now, hasn't it? [CONFIRMATION]

WILLIAM MARSHALL III: Well, we've got a little work to do, because the private contributions, some of them are over several years, so we've got to...we're at about a million thirty in pledges. The pledges are over...some over three years, and so we need to collect a little bit more for interest on that, so that we can...I don't know whether the banks are going to loan the million dollars and take the pledges or not. But I've been involved in raising that money, and I think it's a little bit amazing, considering the fact that there was a fair amount of controversy, and times are not as good as they have been that we did manage to raise that amount of money privately. So, again, I didn't talk about that, but that didn't cost...that's the only thing...that million dollars costs or the people who gave it. And I was pleased that we were able to raise it. [CONFIRMATION]

SENATOR CARLSON: Now, Husker Harvest Days and the State Fair are going to be relatively close together. That, I would think, is a pretty good challenge. [CONFIRMATION]

WILLIAM MARSHALL III: Yeah, yeah, and there is...I think there is an agreement that it can't be back to back. I think there has to be...there has to be maybe two weeks...at least two weeks between them. But I don't know that we dealt with that yet, but that's...I would think even if it was two weeks, there would be some common exhibitors, and that those people may hang around in the interim. [CONFIRMATION]

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SENATOR CARLSON: Would you comment on...is there any concern about possible conflict of interest in your fiduciary responsibilities to the bank and its shareholders, and your responsibility to the fair board? [CONFIRMATION]

WILLIAM MARSHALL III: Well, I have to yearly report my other duties to the board of directors of the bank to have a full disclosure of those things, but I don't think there's a breach of the fiduciary duty. [CONFIRMATION]

SENATOR CARLSON: Okay. Thank you. Any further questions? Okay, thank you, Mr. Marshall. [CONFIRMATION]

WILLIAM MARSHALL III: You bet. [CONFIRMATION]

SENATOR CARLSON: Do we have a proponent speaking for this appointment? [CONFIRMATION]

WILLIAM MARSHALL III: I have to tell you about this proponent (laughter). [CONFIRMATION]

SENATOR CARLSON: Well, we'd kind of like to hear that. [CONFIRMATION]

WILLIAM MARSHALL III: (Laughter) When I was president of the Bankers Association and at the closing banquet, you know, you have the report of the General Council and the report...and Bob got up and he said, gosh, I'm glad to see Bill go. Now I don't have to let him beat me at golf all these...anymore (laughter). [CONFIRMATION]

ROBERT J. HALLSTROM: Chairman Carlson, members of the Agriculture Committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today, both personally and on behalf of the Nebraska Bankers Association in support of the appointment of Mr. Marshall to serve as the representative of the community of Grand Island on the State Fair Board. I think from Mr. Marshall's comments and the biographical sketch that the committee has obtained, that you can see he's been very actively engaged in the community of Grand Island through the years, both through his business operations and in the many civic and local organizations that he's participated in. I think he'll be a good addition, valuable, experienced contributor to the State Fair Board. I have known Mr. Marshall for many years, and particularly through his involvement in the Nebraska Bankers Association. He served on many committees and the Board of Directors in culminating with his assumption of the presidency of the Nebraska Bankers Association in 1993 and 1994. He and his wife, Sherry, were outstanding ambassadors for the banking industry during his term in office. I would suggest that a testimonial to his integrity is that he does play to a legitimate golf handicap, and I certainly didn't have to try and let him beat me over those years. He did so on his own merits. With that, I'd be happy to answer any questions.

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[CONFIRMATION]

SENATOR CARLSON: Okay, thank you. Senator Dierks. [CONFIRMATION]

SENATOR DIERKS: I noticed on the bio that Mr. Marshall hailed from Niobrara. Usually, when I meet people from my old district or any place in rural Nebraska, I try to encourage them to move back home. I wonder if that would work with Mr. Marshall (laughter). [CONFIRMATION]

ROBERT J. HALLSTROM: Well, to my understanding, if I remember the story correctly, they moved the town quickly after he was born, so he would have some trouble moving back to the original town of Niobrara. [CONFIRMATION]

SENATOR DIERKS: Okay (laugh). [CONFIRMATION]

SENATOR CARLSON: Any other questions? Okay, thank you. Do we have anybody testifying in opposition or anybody in a neutral position? (laughter) Hearing none, that closes our hearing. Thank you, Mr. Marshall and Mr. Hallstrom for coming. And I would... [CONFIRMATION]

WILLIAM MARSHALL III: You bet. [CONFIRMATION]

Chairperson

Committee Clerk