

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 14, 2019

HUGHES: It is 1:30 already. OK. Welcome to the Natural Resources Committee. I am Senator Dan Hughes. I am from Venango, Nebraska, and I represent the 44th Legislative District. I serve as Chair of this committee. The committee will take up the appointments and bills in order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members may come and go during the hearing. This is just part of the process as we have bills to introduce and other committees. I will ask you to abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Introducers will make initial statements followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print and it is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to a page or the committee clerk. This will help us make a more accurate record. If you do not wish to testify today, but would like to record your name as being present at the hearing, there is a separate white sheet on the tables that you can sign in for that purpose. This will be part of the official record of the hearing. If you have handouts, please make sure you have 12 copies and give them to the page when you come up to testify. They will distribute them to the committee members. When you come up to testify, please speak clearly into the microphone, tell us your name, and please spell your first and last name to ensure that we get an accurate record. We will be using the light system today. You will have five minutes to make your initial remarks for the committee. When you see the yellow light come on that means you have one minute remaining and the red light indicates your time has ended. Questions from the committee may follow. No displays of opposition or support to a bill vocal or otherwise is allowed in a public hearing. The committee members with us today will introduce themselves beginning on my left.

MOSER: Hi, I'm Mike Moser, from District 22, that's Platte County, Stanton County, and a little bit of Colfax County.

HALLORAN: Good afternoon, Steve Halloran, representing District 33, which is Adams County, and parts of Hall County.

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QUICK: Dan Quick, District 35, Grand Island.

GEIST: Suzanne Geist, District 25, which is the east side of Lincoln and Lancaster County.

HUGHES: And on my far right.

GRAGERT: I'm Tim Gragert, District 40, northeast Nebraska, Cedar, Dixon, Knox, Boyd, Holt, and Rock County.

ALBRECHT: Joni Albrecht, northeast Nebraska, Wayne, Thurston and Dakota Counties.

BOSTELMAN: Bruce Bostelman, District 23, Saunders, Butler, majority of Colfax Counties.

HUGHES: To my left is our committee counsel, Laurie Lage. Yes, Mr. Arrowsmith.

BRADLEY ARROWSMITH: Yes.

HUGHES: Could you hold on for just a few seconds. We're just wrapping up our beginning of the, of the hearing today.

BRADLEY ARROWSMITH: OK, thank you.

HUGHES: Thank you. To my left is our committee legal counsel, Laurie Lage, and to my far right is our committee clerk, Mandy Mizerski, and Brittany Bohlmeyer is shadowing. We do have pages today, Hunter Tesarek, is a sophomore at UNL, with a double major in history and political science; and Noah Boger, who is a freshman at UNL, with a double major in political science and French. So with that we will have our first item on the agenda, and that is Mr. Bradley Arrowsmith. He is a reappointment to the Niobrara Council and welcome, Mr. Arrowsmith, and thank you for your patience. Would you give us a little background on yourself and maybe a little bit about what the [INAUDIBLE]--

BRADLEY ARROWSMITH: [INAUDIBLE] lifetime resident of Keya Paha County, fourth-generation family rancher. I've served on every capacity of the Niobrara Council from its inception, along with the Public Service Advisory Commission. I believe that started in 1992, as the [INAUDIBLE] to the Niobrara Council to the present day Niobrara Council.

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HUGHES: And can you give us just a little background on what the Niobrara Council is and does?

BRADLEY ARROWSMITH: Well, the Niobrara Council-- the Niobrara Council was designed-- intended to assist to be a buffer with the park service between, between the park service and the local landowners. I mean, as a public it's, it's a courtesy and a public sounding board for locals to, to bring problems forward that can be publicly discussed, etcetera, etcetera. I mean, what, what the park service started or what the council started out to be-- it was absolutely wonderful. The park service, the park service funded a budget, there were projects [INAUDIBLE] to date that the board takes care of toilets and pays a handful of bills. There's, there's no money in the coffers, there's no budget. There's no money to budget. There's no ability to budget. It's--I mean, today it's other than, other than oversee a few zoning issues and a few minimal, a few minimal tasks that the park service charge the board with, it really serves no purpose today.

HUGHES: OK, thank you, Mr. Arrowsmith. I will turn it over to the committee members to see if we have any questions. No questions. You know I, I do have one. How often does the Niobrara Council meet normally? Do you have a set schedule or is it kind of at the call of the chairman?

BRADLEY ARROWSMITH: It was monthly with the, with the state pullback of our budget and we have dropped to-- I believe it is seven annual meetings.

HUGHES: OK. Any additional questions for Mr. Arrowsmith? Seeing none, thank you, Mr. Arrowsmith, for calling in and accommodating us today and for your willingness to serve the state of Nebraska. Thank you.

BRADLEY ARROWSMITH: Yes, sir. Thank you very much.

HUGHES: OK, is there anyone wishing to testify in support of the reappointment of Mr. Arrowsmith to the Niobrara Council? Anyone wishing to testify in opposition? Anyone wishing to testify in the neutral capacity? Seeing none, that will close our hearing on the reconfirmation of Bradley Arrowsmith to the Niobrara Council. And we will ask for Mr. Don Kraus to come up. He is our next appointee, and he wants to be reappointed to the Natural Resources Commission. Welcome, Mr. Kraus.

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DON KRAUS: Thank you. Don Kraus, D-o-n K-r-a-u-s, a resident of Holdrege, Nebraska. An employee-- have been an employee of the Central Nebraska Public Power and Irrigation district for 42 years. Now that full-time employment ended in January of 2019, and now I'm under contract with the Central District. The last 26 years, I've been general manager of the Central District and those-- managing the affairs included the 110 megawatts of hydro generation delivery of surface water to about 110,000 acres in south central Nebraska. And the source of supply for the surface water is Lake McConaughy in western Nebraska, a 1.7 million acre foot reservoir. In addition, over 1.9 nine million people visited Lake McConaughy in 2018. Interest in the Natural Resources Commission, I was an appointee in 2014, when we originally started up, managing the Water Sustainability Fund, and served on the scoring committee for four sessions of the-- of that process as we accepted applications, scored those applications, provided funding, and enjoyed that. And that, that is really my interest. It is, it is helping to provide funding for those projects based on merit, and that merit and criteria are established by the Legislature. And that's what we follow is, is that guideline.

HUGHES: OK. Are there questions for Mr. Kraus? Senator Moser.

MOSER: Are there any burning issues in front of the board at the current time? Are things relatively calm or do you have--

DON KRAUS: You know--

MOSER: --crises to solve?

DON KRAUS: You know, it is a set of projects that come in every year, applications, and obviously very, very pleased that the Legislature and the Governor have provided funding for those projects and continue to provide a good level of support. One issue that we debate a little bit on is where do we draw, as we go through the scoring in funding a project, do we draw a line. And we have drawn a line. We've said, here are the projects that separate themselves from the rest and we'll draw a line there and fund those projects with the most merit-- with the higher scores. We don't fund necessarily all the projects, and so that is some discussion, but the commission has, has adopted that. So--

MOSER: Otherwise you could have funded more projects at a lower level?

DON KRAUS: Well, we don't have that structure set up in the-- you know, that's an option we could have if we changed our rules and,

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and-- but we could have provided more funding for more projects. But, we funded the ones based on merit. I guess is the--

MOSER: Sure. No, I wasn't suggesting that. I'm just trying to understand how your business works. And so I was just curious about that. And on what level of funding do you require the applicants to have a 20 percent match or something or any [INAUDIBLE]?

DON KRAUS: It's a 40/60, it's a 40/60 split.

MOSER: Forty/sixty split. Sixty percent--

DON KRAUS: State.

MOSER: State. Are they private individuals or [INAUDIBLE] government.

DON KRAUS: Generally, you're gonna get multiple parties going together on a project. There are individual organizations that come in, but as far as private individuals, I don't recall. I don't recall, it is the--I can say that the majority-- the vast majority are organizations and--

MOSER: Who would be a typical applicant? I mean,--

DON KRAUS: Oh, Natural Resource District, Central has applied as, as an applicant and we had to-- obviously had to abstain from any involvement in that application, but Natural Resource Districts-- State of Nebraska, University of Nebraska, city of Lincoln applied and was funded. The city of Hastings applied and was funded, so there were a couple of projects for water supply.

MOSER: Thank you.

HUGHES: OK. Additional questions? Senator Bostelman.

BOSTELMAN: Thank you, Mr. Chairman. Thank you, Mr. Kraus for being here. Can you speak a little bit more with the, the-- your weighted factor or how you determine on what sites to fund and what not?

DON KRAUS: The projects to fund.

BOSTELMAN: Right. Yep.

DON KRAUS: And what-- what we have is a set of criteria established in statute. And so when the Legislature set up the funding process and

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the Commission to, to adopt these responsibilities they identified-- I don't have those in front of me unfortunately,--

BOSTELMAN: That's fine.

DON KRAUS: --but they adopted those crit-- each criteria and said, evaluate this criteria and score it from 0 to 6, let's say, and, and then evaluate these criteria and score it from 0 to 3. And so there was a-- kind of the majority and, you know, major factors, minor factors-- each of those criteria scored individually by members of the scoring committee and then those are taken to the full Commission and they have the option then to change that score. So that--

BOSTELMAN: Sure. Or, or-- do you see funding or requests more in one, one, one area than another? Is there a certain type of structures or other issues you see more of?

DON KRAUS: Well, first of all, you know, these criteria establish the score and so it may not go to a specific area, but we've funded-- and I should probably get into more explanation here. There's really two groups: large projects and smaller projects. And so you get a smaller group of projects up to a funding level of, of \$250,000, and then the bigger projects will be above that. So you'll get in that smaller group more studies. You know, what about-- and a lot of it has been these-- the flying with the kind of a radar so you can sense aquifer structure. A lot of NRDs have adopted and use that, that, that method-- that study to help them plan for and manage groundwater.

BOSTELMAN: Sure, and, and that's in our area. They know-- they're doing that type of work in our area as well. So-- and you're filling the public power?

DON KRAUS: Public Power and Irrigation District. It's a category Public Power and Irrigation District and so Central is in that category, and I am a representative of Central in filling that spot.

BOSTELMAN: OK, thank you, sir.

HUGHES: OK, any other additional questions? Seeing none, thank you, Mr. Kraus for your service to the state of Nebraska.

DON KRAUS: Thank you.

HUGHES: Anyone wishing to testify as a proponent of Mr. Kraus's reappointment? Anyone wishing to testify in opposition to his

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reappointment? Anyone wishing to testify in a neutral capacity for his reappointment? Seeing none, that will close our hearing on the reappointment of Don Kraus to the Nebraska Natural Resources Commission, and we will begin with LB53. Speaker Scheer, welcome to your Natural Resources Committee.

SCHEER: Thank you, Chairman Hughes and Natural Resources Committee. This is an area that I am not well-versed to so I will read my opening and there will be somebody following me that has more knowledge in specifically what we're talking about in relationship to the bill. Section 1 of LB53 changes 31-224 and 31-226 to add the requirement that a landowner removes blockages from watercourses, sloughs, and drainage ditches between April 15 and March 1 the following year within 30 days of being such notification of obstruction. Current law only requires that landowners remove blockages once per year between March 1 and 15. This is helpful but unfortunately animals and other items that exist year round do not stop building dams or blockages artificially created after the April 15 date. Under the new 31-224, a landowner will still be required to clean the water-- watercourse that traverses the property at least once a year between March 1 and April 15, but they will also be required to clean it within 30 days of receiving, receiving notice the rest of the year. LB53 adds language to the requirement to remove blockages that states the watercourse must be cleaned to its natural depth and width. This clarification was made because there has been concern that existing language allowed the landowner to simply remove some debris from the watercourse to technically meet the letter of the law. By leaving the drainage ability and such watercourse altered and resulting in fields upstream being flooded. Section 2 of the bill adds that a landowner violating the requirement, clear-- that clear the watercourse may be liable for attorney's fees and court costs resulting from any litigation. Currently only one penalty for a landowner failing to comply with 31-224 or 25 is a misdemeanor offense and a \$10 fine; a liability for damages caused by such obstruction. However, proving damages can be extremely difficult and subjective in many cases. Allowing an affected landowner to also sue for attorney's fees and court costs will at least allow them not to incur such a high cost after the land has already been damaged. You will hear momentarily from the individual I spoke of involved in the case relating to the statute this for years. This testify is to the hardship that is taking place in the statutes created and how to-- how this bill will help individuals solve this and rectify the problems. After introducing LB20-- 53, NACO, the Department Transportation, the city of Lincoln approached me with a

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concern that the bill would result in drastically and increasing-- increased costs to them because the thousands of miles a waterway that they oversee. I've been working with bill drafters to have an amendment that would remove county state agencies and municipalities from the bill. And as soon as I get that, I will forward it to the bill for amendment if you choose to bring it out of the committee. And that is it. Thank you very much.

HUGHES: Thank you, Speaker Scheer. Are there questions?

GEIST: I have one.

HUGHES: Senator Geist.

GEIST: Would you repeat your last line that your amendment will remove counties and what was the--

SCHEER: To do-- we would remove counties, state agencies, and municipalities.

GEIST: OK, thank you.

HUGHES: Any other questions? I guess I, I do have-- who, who notifies the landowner that they have to-- I mean, who is the complaint-- the complainant?

SCHEER: Yes.

HUGHES: Who, who is that?

SCHEER: The individual-- the landowner.

HUGHES: Oh say-- so if I-- if we're neighbors and I have a problem, you know, backing up on my field then I just have to notify you or is there a government?

SCHEER: I'm sure there's a-- there is a process-- I'm not familiar with it, but--

HUGHES: OK.

SCHEER: --perhaps the person behind me has been extensively involved and that--

HUGHES: OK.

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SCHEER: --probably be able to answer that [INAUDIBLE].

HUGHES: Very good. Any additional questions? Seeing none, you'll stay for closing?

SCHEER: Because it is the last day of the week, I do not want to burn your time up and I will waive cro-- closing, so have a nice weekend all of you.

HUGHES: OK, thank you. We are appreciative. OK, those who wish to testify in-- as a proponent of LB53. Welcome.

LOUIS POFAHL: Thank you for having me. I think I'm supposed to-- my name is Louis Pofahl, that's P-o-f-a-h-I. I live at 1221 East Sherwood Road, Norfolk, Nebraska. Is there anything else I'm supposed to--

HUGHES: No, that's fine.

LOUIS POFAHL: Oh, OK. I don't want to, I don't want to relitigate the case that I was involved with. And you'll see from my highly professional handout, that I did myself, the, the current bill simply defends or allows the, the per-- property owner who is causing the problem to basically get by as long as possible until much-- until my money runs out, when I have a problem with them. And that they, they are scared to death by the fact that they have a \$10 fee when-- if it's-- if they're being-- if they are found to be guilty of, of causing the obstruction. So what I want to do in the handout, let me just quickly go through it. The reason-- what I'm, what I'm talking about is a ditch that is part of a SID development-- on page 1 you'll see where I wrote it-- I just put a circle around that. And the reason why it turned out to be a problem, was that you see from the yellow lines those are where the homes are. This particular ditch is a designated drainage easement, was put there years ago when this development was put in. So the yellow line shows where the houses are, where they go up to town, it is at the south end. The-- page 2 will show you that-- more of a exact location. We tried to do this in color, but it, it, it just shows that that particular lot was developed as an easement. Page 3 shows in context of where this is compared to property owners outside of the subdivision. I'm located on the far right, Pofahl. The gentleman who is in a, a, a-- in the case with is Mr. Jim Olson. He was haying that area. You'll notice the little X, that's water that's sitting in the ditch. You'll notice on the-- I'm sorry, should have went back to page, page 2, it shows that, that little X again, that's a 2012 map, that's water in the ditch

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that's flooding that ditch and flooding that pasture. On page, page 3 is 2016, the same little-- you'll see that where that X is, that, that gre-- that light green area, that's water laying in the area-- in, in the, in the ditch that's flooding this pasture that's soaking this because of the water-- the ground level is so flat. Page 4 shows the 2016 map and it gives you a more highlight that-- there's a ditch underneath all those trees, there's a ditch there. Believe it or not there's a ditch there. Page 5 is a picture of the ditch that supposedly the landowners said that they were cleaning out each year from January-- from 2014, '15, '16, '17, and '18. They said they were cleaning this thing out. We had water backed up. Page 6 shows a picture of Mr. Olson's land. The water that was backed up in there, you can see that the land's level it's flowing over the ditch. Two thousand-- or page-- I think it's 7, that's a 2018 map. It shows it's been cleared. And if you go to page 8, it shows that-- you'll see where the trees on the edge there were taken out of the, of the ditch easement. Page 9 is a picture taken on April of 2014. The ditch has been cleaned out. It's been cleaned. That's what was there-- what-- if you go back to, I think it's page 5, you can see what it was. This is what it is now. And to just-- I know that it probably is irrelevant, but this is a-- this is from the road-- this is on January 30 showing that water is flowing through that ditch even today. No matter-- so we have water flowing through there. Now, the reason-- here's what happened, we went to the-- went to him and asked him to clean it out and he didn't. And my costs over three years-- that ditch was cleaned out-- was not cleaned out by the SID-- the property owner-- if you go back to the map and look clear down there by "G." That property owner was so desperate to get that water off of his pasture because he couldn't get it-- he asked them, let me clean out the ditch because we need to get that off, I'm, I'm losing my ditch and I can't feed my cattle. So--

HUGHES: Your red light's on. Can you finish up in a couple of seconds?

LOUIS POFAHL: Yeah. So, so-- my-- so what happened is, this went from February of from 2015 to 2018. We couldn't get them to clean out the ditch. We became so desperate that we settled-- that the property owner over two, two properties away was so desperate to get the water off of his pasture, he cleaned out the ditch for them. They didn't even offer to pay for fuel. They didn't pay him. They didn't even offer to pay for fuel, they just said, yeah, go ahead and clean it off. They didn't care. This bill would allow people like me who have spent \$8,750 over a three-year period just to recuperate some fees.

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The other problem-- I know, I know I'm running long, and I apologize, and I'll finish up quickly. We are also able to recover damages, but how do you place the cost-- how, how do you, how do you list the damages on any lawsuit or any attempt to sell this on a pasture that's flooded? How do you, how do you put a value on that? How does Mr. Olson clearly put a value on how many bales of hay he was, he was supposed to get off of this pasture every year? How am I supposed to put a value on the loss that we have when water wasn't going into our lake that we used to irrigate out of that we have a permit for? So--

HUGHES: OK. Thank you, Mr. Pofahl. Are there any questions? Yes, Senator Geist.

GEIST: Thank you, for your testimony, and I'm gonna give you some time to finish up your story here with my question. Just so I'm clear, the land that was flooded where the ditch is on page 2,--

LOUIS POFAHL: Right.

GEIST: --where you show hay and on a subsequent--

LOUIS POFAHL: Right.

GEIST: --picture, is that the total of what was flooded or is it also where it says section 2 town 23 on page 2 of--

LOUIS POFAHL: No, no it was-- it's primarily that, that section 2, 23, 1W is a, is a corn, soybean location field.

GEIST: OK.

LOUIS POFAHL: There-- you'll, you'll see next to it there's kind of a fence there.

GEIST: Um-hum.

LOUIS POFAHL: That area where we put-- I put hay--

GEIST: OK.

LOUIS POFAHL: --is pasture land. It's so flat that the, that the area it just-- it stayed saturated. He, he used to raise cattle on there, and couldn't raise cattle on there anymore because cattle were stepping-- walking in mud.

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GEIST: OK, so it's the long strip there?

LOUIS POFAHL: Correct.

GEIST: OK, it-- was there anything else you wanted to add?

LOUIS POFAHL: Well, here's the problem with when it comes to this, is that in order for me to get the SID, which is a government unit, I can't sue them. I have to file a claim. Mr. Olson and I had to file a claim. The SID had six months to respond to the claim. They didn't. Then we filed suit. They had 90 days to respond to our filing suit against them. They claimed that they had some problems with attorneys and they couldn't get it figured out. This was just a subdivision with a few homes. This isn't a big city like Lincoln or Omaha. They didn't get it done after 90 days. They went to the court and asked for 90 more days. The court gave them 90 more days. Can you imagine? I'm, I'm, I'm, I'm just trying to get them to clean out the ditch. I'm not asking-- we weren't really asking for money, we want-- just clean out the ditch. We want you to clean out the ditch so we don't have to put up with this flooding. So they-- we-- so now we're at 6 months 90 days, and 90 days, we're at a year. Guess what? Now, we're in 2017, because we started this in 2015 and '16. We only could go back two years for damages of hay, lost hay crop. We're now gone so far-- we now have a new claim for 2017. They admitted basically, well, yeah, you can-- we-- so we asked them, do we file another suit-- begin this whole process all over again with two years and one year? No, just roll it into the other one, so we'll just pay those damages. So we weren't worried-- they were willing to settle the cash. That wasn't what we were wanting. We wanted them to clean the ditch so our property wasn't affected, and they didn't. The property owner, like I said, "G" was so desperate, he had the equipment to do it, he cleaned it out themselves, and they didn't even offer to pay for it. So what this does, is it says, look at if you're stuck with a situation, please give the-- the state now has said that they're in charge-- really, basically we're going to put this in charge. Please give property owners like myself-- let us-- give the judge and a jury some authority to make the decision. We allow them in the state of Nebraska to determine guilt and innocence over murder. This is just a ditch. They're certainly qualified, and, and the, the law as I understand it does not require that they pay attorney's fees and other expenses. It gives us the authority-- it, it allows us to collect that if the judge or jury would determine that we were being drug along and [INAUDIBLE] and literally that's what happens when you-- when you're an individual

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property owner versus a SID or city or something like this, they'll just drag you along until your money runs out.

GEIST: Yeah, thank you.

LOUIS POFAHL: You're welcome.

HUGHES: Senator Moser.

MOSER: So this end doesn't have photocopies, so we don't exactly know what you're showing there.

GEIST: Here.

MOSER: But you are part of the SID?

LOUIS POFAHL: No, I'm not part of the SID.

MOSER: OK, who owns to ditch?

LOUIS POFAHL: The SID owns the ditch.

MOSER: And the SID ditch drains the water to whom?

LOUIS POFAHL: The water comes-- I'm at the west-- I'm at the east end of their ditch. Mr. Olson was at the west end of the ditch. So we were at both ends of the ditch.

MOSER: Uh-huh.

LOUIS POFAHL: He was getting water backed up into his pasture. I was getting-- I-- water wasn't flowing through-- wasn't flowing into the lake, which we used to irrigate out of. We don't-- we couldn't do it anymore, so we dug a well.

MOSER: The, the lake is yours?

LOUIS POFAHL: Yes.

MOSER: So, so the water is supposed to drain into your lake,--

LOUIS POFAHL: Correct.

MOSER: --but it's flooding your neighbor's property on the other end-- on the other side of the SID.

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LOUIS POFAHL: Correct.

MOSER: And who requires them to clean that ditch now?

LOUIS POFAHL: Well, currently state statute 31-224, says that property owners are required to clean the ditch at least once a year between March 1 and April 15.

MOSER: So is it like grass and weeds and reeds and stuff?

LOUIS POFAHL: It, it specifically says, "where all rubbish, weeds or other substances blocking or otherwise obstructing the flow of water."

MOSER: Well, I'm wondering what's blocking the waterway, not so much what the law requires.

LOUIS POFAHL: What, what's blocking the water in this particular case is four beaver dams. Continually--

MOSER: What's the length of that ditch about?

LOUIS POFAHL: It's probably a-- approximately-- a, a little less than a quarter of a mile.

MOSER: Oh, that's, that's quite a ways.

LOUIS POFAHL: Yeah.

MOSER: You've got to wade through there and clean all the stuff out of it.

LOUIS POFAHL: Right. But there's other-- but see the-- there's property owners like myself who are dealing with neighbors and they don't want to, you know,-- these things normally are not dealing with situations where everybody's getting along. You know, a good neighbor will take care of you if you-- if they're, they're a subdivision-- and, I mean, basically all they are-- these are \$250,000 to \$500,000 homes. It's not like these people don't have the money. They just, quite honestly, don't care. And there are certain neighbors that just don't care. And when we run into that situation, for those of us who are trying to raise cattle, raise hay, irrigate out of the lake, and a neighbor just doesn't care, and we have to drag him through all this. And then they use every possible way on the books, we got to wait, we got to wait six months. Then we got to wait 90 days after they do it.

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Then they get to go to court and they say another 90 days. So the, the point is they can drag us out until I run out of money.

MOSER: Is there water always in that ditch?

LOUIS POFAHL: Well, you can see from the last page?

MOSER: Well, those-- yeah.

LOUIS POFAHL: The last page is a picture of water flowing through that culvert on the road down Mr. Olson's ditch through that ditch because the other property owner [INAUDIBLE] into my lake. That was on January 30 when the temperature was 9 degrees.

MOSER: But, but this was after it was cleaned out?

LOUIS POFAHL: Yes.

MOSER: So every time it rains there's water?

LOUIS POFAHL: Yes.

MOSER: Is there underground water that kind of keeps it full, too?
Or--

LOUIS POFAHL: A, a little bit, but not-- but that's not the primary thing. This water will eventually flow through to the Elkhorn River-- it just flows through there and then out to the Elkhorn River.

MOSER: OK, thank you very much.

HUGHES: Other questions? Senator Gragert.

GRAGERT: Thank you, Senator Hughes. Mr. Pofahl, thank you. I got a couple of questions in, in-- he hit on the last there-- is there a live stream going through this ditch, a live stream going through this ditch?

LOUIS POFAHL: Yes.

GRAGERT: It runs mostly year round?

LOUIS POFAHL: Well, yeah-- I mean, that's what-- that's the purpose of page 10. On January 30, the water's running-- you can see that there's ice, but there's water running through there, yes.

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GRAGERT: Are you familiar with the 404 permitting, as far as cleaning out ditches or, or this kind of situation, which would be from federal government 404 permit wetlands?

LOUIS POFAHL: Yeah, yeah.

GRAGERT: [INAUDIBLE]. Did anybody rea-- apply for a 44-- 404 permit?

LOUIS POFAHL: Well, no. There was no-- I know we're taking up time here, but on--

GRAGERT: You can take your time.

LOUIS POFAHL: No, but what happened was-- when I addressed-- this started in September of 2015. I went to, I went to the president of the, of the SID and said, please clean out the ditch, not asking for money, please clean out the ditch. My attorney called the president of the SID in January of 2016. His argument was that we couldn't do it because of a-- we needed a permit or we would be destroying beaver dams and killing beavers. My attorney called the Army Corps of Engineers, said, no permits required, that's not an issue, don't kill the beavers. She called the, the Natural Resources District and asked them similar things and there was no problem. The point being is-- so he threw this up-- he did-- it's not written in there, but I, I will testify truthfully and under oath, he used to my attorney that they couldn't take the beaver dams out because PETA would come after them for destroying the beaver dams.

GRAGERT: OK.

LOUIS POFAHL: There shouldn't-- there-- this is not a-- this is on private property. I-- it's, it's-- I think that it's governed by the state of Nebraska not the federal government.

GRAGERT: One last question. When the rubbish and the a-- the plug, or whatever you want to call it, is in the creek, it doesn't totally stop the creek, it slows the creek down?

LOUIS POFAHL: No, no, no, it stops it.

GRAGERT: It stops?

LOUIS POFAHL: Yeah, because-- yeah, with ground fixer, beaver dams--

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GRAGERT: Yeah, I'm familiar with it.

LOUIS POFAHL: It was just-- it was backing it up and it just kept backing it up further and further and further. And initially, property owner, I put his as "G", wasn't involved in this, but it just kept backing up, backing up. Now it goes past Mr. Olson's property underneath Sherwood Road, back into another pasture, and that's when he finally said, now I'm affected. And so it just kept backing it up. Because, because the ground sits so flat and that's typically what the problem is.

GRAGERT: OK, thank you.

LOUIS POFAHL: Um-hum.

HUGHES: Senator Bostelman.

BOSTELMAN: Thank you, Chairman. I want to follow up, I think, on a question Senator Hughes asked earlier. Do-- what's the process that he asked the speaker on notifying-- how do you-- how does a person notify a landowner? Is there a specific process put in place--

LOUIS POFAHL: Well, I--

BOSTELMAN: --or just meeting with them and then saying, I've got a problem?

LOUIS POFAHL: Well, I, I think all it does is it just adds the same process that it currently is. I mean, if it's not cleaned out, the current process is that we would sit down like I did and then if there was no resolution, I would file a claim and that's the same, and, and that's the same thing here with the additional other days-- any other time that would do. I don't see why that would change. Because, currently, the, the SID and I had a problem, and so did Mr. Olson had a problem with the SID. We simply went to them and asked them to clean it out. When they didn't, that's when we begin the process of filing for a claim. And then when we, when we couldn't get to them, we had to-- then we had to sue them. So I think you would go through the same process anytime. You send them a notice, 90 days, and either file it with the county court or, or some way. I, I don't know but I, I think we should be able to-- beavers,--

BOSTELMAN: OK.

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LOUIS POFAHL: --beavers don't know-- don't stop at April 15. That's, that's just, that's just the way it is. And then not only that-- I mean, the picture-- if it was just the beavers-- on page 5-- I mean, that's the picture of the ditch-- it's just overgrown-- and they didn't-- and, and they still didn't comply because it-- the, the debris was-- there was just so much debris in there.

BOSTELMAN: I understand. I appreciate that completely, and I understand what you're explaining and, and, and you're-- and the process you're going through. I guess the other question I'd have is, is-- do you think-- is it a township person, is it a county supervisor or someone that gets involved in this to determine, you know, what's going to determine what's, what's a, what's a problem and what's not?

LOUIS POFAHL: Well, I think, I, I think--

BOSTELMAN: There's going to be, you know,--

LOUIS POFAHL: I think the court-- I, I mean, if it just got to the point where in, in this particular case we just couldn't get them to do it. We would have to present our case to a judge. Show him our evidence, the SID would show their evidence. If the judge felt that we were correct, then he would order them to clean it out. If he felt that our loss-- our claim or was frivolous, he'd throw it out, and the, and the cost is ours.

BOSTELMAN: OK.

LOUIS POFAHL: I, I mean-- that's the, that's the, that's the way it is right now and all we're asking is add some other days and that, that if we can't come to a, a-- because I sent a letter to them in September of 2015, please comply with it, you're affecting not only me but your other neighbors and nothing.

BOSTELMAN: I understand. Thank you, sir.

HUGHES: Senator Albrecht.

ALBRECHT: Thank you, Chairman Hughes. I appreciate you being here Mr. Pofahl, right?

LOUIS POFAHL: Correct, thank you.

ALBRECHT: OK. In the beginning when you were talking about this and I'm looking at the map, I immediately thought, well, this looks like a

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problem with the engineer who put the SID together. But you're talking about some-- and, and if it was water runoff because of the new development, but it's really not.

LOUIS POFAHL: It's not, no. It's coming--

ALBRECHT: The beavers that are filling these waterways up,--

LOUIS POFAHL: Correct.

ALBRECHT: --why would you want that SID to come down onto that property and clean the beaver dam out?

LOUIS POFAHL: Well, because it's their property.

ALBRECHT: So, so we're talking not about this farmer that has livestock that he could have hayed this area that is flooded, we're talking about this area where there's actually homes--

LOUIS POFAHL: This low-- that low, that low strip. What's that?

ALBRECHT: Are there actually homes here?

LOUIS POFAHL: Well, if you look at the SID on page-- on the first page showed all those lots there by that. What happened over the years was that SID decided they would no longer build the, the-- the only homes are those listed on the yellow.

ALBRECHT: Up in the, up in the?

LOUIS POFAHL: Right. That's where the homes are.

ALBRECHT: But you have all this plotted out down here [INAUDIBLE].

LOUIS POFAHL: All that plotted out down there. They have decided it's actually no longer plotted. They went to the county because they were-- they knew they didn't have the funds to pay the taxes on the individual lots,--

ALBRECHT: Um-hum.

LOUIS POFAHL: --because they weren't selling them, because they have to put in sewer and water and roads. They didn't have the money to do that. They now have gotten rid of those lots. It, it would-- I just happened to catch them on there. But they-- there-- those lots are no

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longer there. I spoke with the county assessor and they took it off because of real estate taxes.

ALBRECHT: OK, so this property that this waterway is on is part of a SID?

LOUIS POFAHL: Correct.

ALBRECHT: Not the farmer,--

LOUIS POFAHL: No, no, no.

ALBRECHT: and not your property?

LOUIS POFAHL: No. In fact, what I'll do is leave you with--

ALBRECHT: Because over here you show the same part but then you put an X over here.

LOUIS POFAHL: No, where the X is, where the--

ALBRECHT: Is where the water you're talking about?

LOUIS POFAHL: --is the water [INAUDIBLE] of flooding onto Mr. Olson's property.

ALBRECHT: OK. But if the water's backing up and it's because of the beavers, why would it be the SID's responsibility to clean it out.

LOUIS POFAHL: Because it's their land.

ALBRECHT: It's their land, then how are you being affected?

LOUIS POFAHL: The water's not flowing.

ALBRECHT: OK.

LOUIS POFAHL: The, the water's backing up on Mr. Olson's property. So-- and Mr. Olson in the past would go on there, but he's trespassing. He's actually trespassing on their property.

ALBRECHT: OK. But, I have a similar situation where I live, and we have NRDs here today, but I called in the state, the county, the NRD,--

LOUIS POFAHL: Right.

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ALBRECHT: --and it isn't because of the beavers, it's just the topography of the land and how things-- but there is a box culvert that's always full, but nobody could ever get in it because of all the rains we've had and all the other "ya, ya". But, but my question is, how can-- I mean, when you put a new housing development in and you're around all this ag land-- you know, the water has to go somewhere,--

LOUIS POFAHL: Correct.

ALBRECHT: and if it's actually-- I mean, on the smaller map it's probably right up there where the-- where it's plugging up, right? I guess, if it's because of the beavers on the SID property,--

LOUIS POFAHL: OK.

ALBRECHT: --the SID people should clean it out, but they aren't,--

LOUIS POFAHL: Correct.

ALBRECHT: --and that's why you want damages for them not cleaning it out and to be asked to consider cleaning it out so that it doesn't upset the water from--

LOUIS POFAHL: Mr. Olson can file damages for lost hay crop. The pasture was flooded. He filed a claim for lost hay crop for two years.

ALBRECHT: For two years, he filed a claim.

LOUIS POFAHL: Right. That's the, that's the limit by the law.

ALBRECHT: Um-hum.

LOUIS POFAHL: This dragged out for another couple of years. Not only were-- because we were litigating for the two years the time had passed-- the six months and 90 days, and 90 days. We now had a new hay crop that wasn't able to be harvested. The attorneys for the SID said, don't file a new claim, go ahead and roll the damages into the existing claim and we will agree to that.

ALBRECHT: And you're still in court?

LOUIS POFAHL: No. We, we finally settled. Well, we didn't-- we finally settled only because if, if you look at the last page-- the ditch got cleaned. So what can we go to court for? The-- they, they were already willing to pay the damages. Now the ditch is claimed and we're not

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going to have to worry about that anymore. But that didn't happen because of the SID, that happened because of a property owner a quarter of a mile away was so desperate says, I'm losing my pasture. I can't put cattle on it. I've got some equipment, I'll go in and clean it out. And his guy spent two weeks cleaning that out. Only because he was desperate-- he, he-- we couldn't-- he could not wait any longer for us to go to court. We were willing to go to court but as soon as he cleans it out then we're--the ditch is clean. We're happy. But, why should a property owner, two properties away, be required to clean out something that the SID should have been cleaning out for years.

HUGHES: Any additional questions? Senator Moser.

MOSER: Is this in Madison County, I assume?

LOUIS POFAHL: Yes.

MOSER: Do you have zoning in Madison County?

LOUIS POFAHL: Yes.

MOSER: The a-- well, typically, now when you try to, to build a new development you have to come up with a water plan and you have to show where your water's gonna drain and you have to maintain those,--

LOUIS POFAHL: Right.

MOSER: --you know. So if you call the county, wouldn't the county help you?

LOUIS POFAHL: No, no. This is on private property. I have a e-mail here from the County Commissioner in September, in September of 2015, when I asked him, is there anything you can do and he says, no, this is not a county road. This is not a county ditch.

MOSER: But if they-- did they file a drainage report when they built this subdivision? Is there a drainage plan?

LOUIS POFAHL: Well-- but, but nobody knows that. But that was done-- this is about 30 years old.

MOSER: Um-hum.

LOUIS POFAHL: And the original developer,--

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MOSER: In the future there would be,--

LOUIS POFAHL: --the original developer went broke.

MOSER: there would be more evidence to help you. OK, thank you very much.

HUGHES: Any additional questions? Seeing none, thank you for your testimony, Mr. Pofahl.

LOUIS POFAHL: Thank you very much, I appreciate your patience and time.

HUGHES: Anyone wishing to testify in support of-- any additional proponents of LB53? Anyone wishing to testify in opposition to LB53? Anyone wishing to testify in a neutral capacity of LB53? Seeing none, that will close our hearing on LB53, and we will move on to LB177. Welcome.

KRISSA DELKA: Thank you. Hello, committee members, Chairman Hughes. My name is Krissa Delka, K-r-i-s-s-a D-e-l-k-a. I am, Senator Brett Lindstrom of District 18's legislative aide. And as some of you are aware, he's a little under the weather today, so I am filling in for him and he's asked me to read his introduction to the LB177. So the purpose of LB177 is to continue to provide a necessary financing tool for the Papio-Missouri NRD, which will further reduce, reduce the risk of catastrophic flooding and improve water quality throughout the district. The Papio-Missouri River NRD was granted general obligation bonding authority by the Legislature and signed by the Governor in 2009. For statute, this authority is to sunset on December 31, 2019. The vital-- this vital financing tool will assist the NRD in fulfilling its statutory missions which are protecting public infrastructure and investments, protecting lives, health, safety, and welfare of all residents in the district. Protecting private property of individuals, businesses, and taxpayers within the district, meeting U.S. Army Corps of Engineer new certification standards further reducing the amount of property in harm's way and that are subject to costly federal flood insurance, continued community compliance with the federal Clean Water Act, and most importantly, to provide a locally formulated and financed district-wide solution at no cost to the state of Nebraska. LB177 authorizes the Papio-Missouri River NRD to dedicate a portion of its existing statutorily capped levy of four and a half cents to finance flood protection and water quality enhancement projects through the issuance of bonds. Proceeds from the

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bonds are used to fund a comprehensive, comprehensive list of projects and practices for stormwater management, flood control, and water, water quality enhancement. They include, but they're not limited to, low-impact development, best management practices, flood plain buyout, reservoir basins, and levee improvements. LB177 leaves intact significant restrictions and limitations on the district by restricting reservoir and water quality basins to a permanent pool of 400 acres or less, providing 100 percent public access for permanent pools over 20 surface areas, and providing further public access requirements when suitable for recreation. The bill further prohibits the use of eminent domain for purposes of enhancing private developers, and the district may not utilize more than one cent of its existing levy for bonding purposes. The district may utilize an additional one cent only after approval of the district's electorate. This bill does not authorize a tax increase nor any additional taxing authority. As the district is required to use its existing statutory levy of four-and-a-half cents per 100 of assessed valuation, requests no state funding to address a local issue. Our request in its simplest form is the NRD has the unique ability and statutory obligation to coordinate a truly comprehensive and integrated stormwater management plan for the Papillion Creek Watershed in the district as a whole. The NRD needs to continue to have the ability to guarantee that whatever solutions are employed: reservoirs, levees, and low-impact development, etcetera, to address water quality and flooding. They are implemented and that they work as designed. The NRD and its partner counties and communities must have the ability to ensure that our communities and our citizens are safe. Protecting public health, safety, and welfare has to be paramount. The Papio NRD has utilized its bonding authority wisely, conservatively, and prudently over the last ten years. The district has constructed at least six major flood control and water quality enhancement projects utilizing bonding authority while simultaneously either reducing or lowering its property tax levy 13 out of the last 14 years. Average annual property tax asking increases over the last 10 years have been a conservative 3.1 percent a year which, as you know, is very similar to the state's average annual budget growth goals. Quite simply, the district is running out of time. The Papio NRD contains the fastest growing communities and counties in the state of Nebraska and, consequently, continued urban growth has led to larger flood plains increasing the risk of damaging floods to life and property. In fact, a majority of the land in the Papillion Creek Watershed will be fully developed in the next 20 years or less causing existing problems to only get worse. Due to the rapid growth, the district has already lost the ability to

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construct a flood control reservoir site to development, and at least six more flood control sites are under extreme development pressure. I just want to take a minute to thank, Senator Hughes, and the committee of the Natural Resources, for the commitment to urban water issues especially the public safety and welfare of the citizens of Nebraska. I'd also like to extend a, thank you, to those who agreed to co-sponsor this bill. I appreciate that support. There are going to be testifiers following me to answer any questions you might have, and thank you for allowing me to testify in lieu of Senator Lindstrom.

HUGHES: Thank you, Ms. Delka.

KRISSA DELKA: Thank you.

HUGHES: Is there anyone wishing to testify in-- as a proponent of LB177? Welcome.

JOHN WINKLER: Thank you, Chairman Hughes, members of the committee. I'll wait till they pass out the maps if you want or do you want me to start now.

HUGHES: Clock's running.

JOHN WINKLER: OK, I'll start now. Good afternoon, my name is John Winkler, J-o-h-n W-i-n-k-l-e-r, and I'm the general manager of the Pappio-Missouri River Natural Resources District, and I'm also testifying on behalf of the Nebraska Association of Resources Districts. I want to thank you for the opportunity to testify in support of LB177. I won't repeat a lot of what was said by the opening. The district, again, is requesting the extension of its bonding authority. And, again, the bill does not grant any additional taxing authority to the NRD, as the bond service debt must fit within the district's statutory authorized property tax and the levy four and a half cents per \$100 of assessed valuation. The district with or without bonding authority can never exceed a four and a half cent mil levy limit. The district had utilized bond funds to construct six major flood control and water quality projects over the last ten years. They're listed there for you. For example, the bond funds were used as a catalyst to complete the Sarp-- Western Sarpy--Clear Creek Levee Project. This project protects Lincoln and Omaha's well fields from disastrous ice jam flooding. The project lagged for over 10 years because of inadequate federal funding, and its price tag went from \$11 million to \$43 million dollars over that time. Bond funds allowed the NRD to finally complete the project in time to protect the second

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largest city in Nebraska as only potable water supply. The Papio-Missouri River Natural Resources District has bonded a total of \$71.5 million over the last 10 years. The bonds are for a 20-year term. Total outstanding G.O. bonded debt as of last year is \$60 million. All of the current bonds will be completed and paid by fiscal year 2033, and the district has utilized six-tenths of its one cent statutory authority for bonds. Fears of an out of control government entity bonding itself into debt spiraled never came to pass in that 10 years. The Papio NRD's current property tax mil levy is .0375 cents per \$100 of valuation. For 13 out of the last 14 years, the district has either lowered or kept its mill levy the same and again average valuation and tax [INAUDIBLE] increase since bonding authority was granted has been a little over 3 percent. A two-thirds supermajority of the board of directors of the NRD, 8 out of 11 is necessary to issue bonds and, again, shall not exceed the one cent of the district's overall taxable valuation. In addition the Papio NRD must secure a majority vote from the eligible voters of the entire district to be granted the additional one cent of bonding authority as outlined in statute. The Papio NRD has identified six priority flood control reservoir projects and one levy project that must be constructed within the next ten years. Estimated cost of these projects are \$80 million in today's dollars. Development continues to rapidly occur in the Omaha Metro area and each reservoir site has either active construction sites or platted subdivisions around the project areas. These projects have widespread public support for the city of Omaha, Sarpy County, city of Papillion, city of Gretna, city of Bellevue, city of La Vista, and numerous citizens who have submitted letters of support. As a result this rapid development in the Omaha area, the district has received unsolicited offers to purchase land from various landowners in the project priority site areas. These offers range from \$12 to \$15 million which we cannot execute those purchase agreements because we don't have the funds. Some other examples of the benefits from bonding authority in the result of construction of past flood control reservoirs, some new rainfall data and modern mapping techniques. The Omaha Metro area is one of the few, if not the only place in the nation, where federally designated flood plains are actually being reduced between 10 and 15 percent. This reduction in the flood plain will remove or prevent 3,000 structures, homes and businesses, from being designated within the 100 year flood plain. This will result in \$7 to \$8 million in annual flood insurance premiums savings alone to area homeowners and businesses. With the future addition of new planned flood control reservoirs and levees, the flood plain will only decrease further and generate even greater

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public benefit. It is estimated that the readily quantifiable average annual benefits of the existing and planned reservoirs in the Greater Omaha Metro area is \$25 million. Compound this benefit over 100 years and greater lifespan of these flood control projects in the average combined benefit the community is over \$2.5 billion. A 2012 study performed by the National Waterways Foundation on behalf of the Corps of Engineers found that when a construction project delays, it costs society about 37 cents on the original dollar invested for every year that the project is delayed. Therefore, more than three years of delay is equivalent to doubling the cost of the project. The disturbing reality is that construction projects are delayed an average of 20 years. The extension of bonding authority for the Papio NRD has been and will continue to be a cost effective means of enabling the district to carry out its mission. That concludes my testimony. I'd be happy to answer any questions.

HUGHES: Thank you, Mr. Winkler. Are there questions? Senator Gragert.

GRAGERT: Got a couple. Thank you, Chairman Hughes, and thank you for your testimony. I got just a couple questions. I have information here where you're carrying over like \$26, approximately \$26 million, in your cash fund. Could you briefly-- brief the committee on what that, that carry over is?

JOHN WINKLER: Yeah. So the-- it's, it's a difficult frame of people that have been in the financial services industry for years. It's, it's public budgeting is a little different. So what happens is we are required to submit a balanced budget to the state. All of your revenue must balance, all of your expenses obviously. And what that is, is it's not a, it's not a reserve fund where it's just sitting there waiting for it to be spent. Those funds are actually obligated to projects that have yet to start or are not completed yet. Or they're there for salaries or whatever. Actually our reserve fund, which is a reserve fund, is less than one month operating expense for the district. It's about \$700,000. So actually, and I will send each committee member a breakdown of where all that cash is obligated to, but I pulled up just some preliminary data. For example, we have rural water systems and those are obviously restricted funds that can only be spent in the rural water districts, and they're generated by the sale of a commodity water. So it has nothing to do with property taxes. So that budget reflects about \$1.6 million in those funds. So you can't count those. We have the Missouri River Levee Project that we're going to be approving a \$22.7 million construction contract this

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evening at our board meeting, and there's close to \$8 million sitting there to pay for that account-- or pay for that project. So they're not reserve funds that are, are sitting there that we can just willy-nilly spend where we want. They're actually obligated to and budgeted to specific projects and programs within our budget. For example, when we, we bonded for Lake Flanagan in Omaha. We bonded the money up front, so that money had to be shown in our budget. So it looked like we had \$45 million sitting around in cash. Well, it wasn't the case, that money was going to be spent and obligated to that project. So that's why it's, it's difficult, and it's confusing at times.

GRAGERT: Can I follow up, Senator Hughes?

HUGHES: Sure, yeah.

GRAGERT: As I understand it, the process on the bonding is that one percent the board can approve it, and at-- and if you want two percent you go to the voter approval?

JOHN WINKLER: That's correct.

GRAGERT: Could you, could you tell us-- only one percent first-- how many times you use it, and then maybe on this-- have you ever-- has two percent ever been approved?

JOHN WINKLER: So, yes-- so we approved two different series, what we call series, with two different bonds. And then we actually refinance those bonds, so you'll see on the sheet, and I provided everybody with that. It was kind of a financing schedule. So we actually refinanced the original series bonds to, to a lower interest rate. So we saved close to \$3 million by refinancing. So actually, we had two issuances-- two original issuances that equal that \$71.5 million. And then we refinanced a couple of times. The only reason we didn't refinance everything as once, is because some of the bonds weren't eligible to be refinanced the first time around. So we came back later and did that again. And, yes, we did go out for a vote for the additional one cent and it was a very close vote but it failed. And so, and again, that by statute the district does have the one percent that takes the supermajority to approve.

HUGHES: OK. Additional questions? Senator Albrecht.

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ALBRECHT: Thank you, Chairman Hughes. So-- do you wait for federal funds on some of these projects or is it just all you? All, all the NRDs?

JOHN WINKLER: Well, it's-- so-- we work very close obviously with the feds and with the, with the state. And one of our projects, and if you look on your map, WP1, we actually did receive some federal funds, and we received some water sustainability funds which nearly paid for that entire project. And so you could kind of take that off the map as a priority reservoir because we've figured out how we're going to pay for it. But we don't wait around, but we do look under every couch cushion we can and we do engage. For example, we're in the process of working with the Corps to restudy the whole watershed. They were involved in the 70s and 80s, and they built several reservoirs in the Omaha area. Four of them to be exact. So we reengaged them to see if they could, in fact, maybe help cost share with us to finish the ones that we have to look at. We'll continue to apply to the Water Sustainability Fund. And, and one of the questions came up to the confirmation there was, you know, the, the match. It's 35 percent at the federal level, it's 40 percent at the state level. So if someone's offering you, you know, tens of millions of dollars to build a project and you can't get the match, then it really doesn't help you. And so that's one of the things that you could potentially could use the bonding authority for is to match a federal injection of funds or a state or combination. So we look everywhere we can.

HUGHES: Senator Gragert.

GRAGERT: Thank you, Senator Hughes. Been visiting about eminent domain-- do you have eminent domain authority?

JOHN WINKLER: We do have that authority, yes.

GRAGERT: Have you ever used it?

JOHN WINKLER: We, we have used it in the past. I can say, in fact, our chairman will testify probably next, but the board is very cognizant of, of eminent domain and, and those in that process and they do everything they can not to use it. There was a situation in the past where we, where we were forced to use it by the school land trust, I think, I think that's just their process. You have to take them to eminent domain. So we used it then. But there's times where we've had to use it. But again, I think on these new sites, these priority sites, that it will be something that will not be used. I mean, I

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literally have all six sites-- people have come-- approach us and say, we want to sell. And, and here's the thing when I first started 12 years ago, and I first testified on 209-- or, excuse me, in 2009. It was-- you used to get the threat of being taken to court because you were going to take someone's land and now I'm getting threatened to get taken to court because I can't buy the land fast enough. And I've had several e-mails that people and committees are saying, you know we can't wait till 2040 and 2050 for you to get to these projects. We're ready to sell. And so you're, you're adversely impacting what they can do with their property. And so there has been, you know, threats of bringing in legal folks to kind of force our hand to do that. And we simply just don't have the funds to do that. So the, the environment has changed 180 degrees.

GRAGERT: Thank you.

HUGHES: OK. Senator Bostelman.

BOSTELMAN: Thank you, Chairman. The question is, what's the time frame for these dams, seven-- what-- eight-- whatever [INAUDIBLE] dams?

JOHN WINKLER: The current time frame, I think we'll complete-- well, we'll, we'll complete the six in about till 2033, 2040, at the current, kind of the current, financing mechanisms we're at. We probably won't complete all of them until well after 2050 or longer.

BOSTELMAN: So are you asking, asking for this ability for just the six dams or for any other projects as well?

JOHN WINKLER: No, well-- when we constantly evaluate the economics and the schedule of what we're doing and what we're seeing is that the bonding authority that's not so much the amount we can bond right now it's the timing. And we've probably got about \$20 or \$25 million more that we can bond of that additional four-tenths of a cent to get us to our penny. But what that does, is it allows us to do some of the bigger projects upfront and not drag those out because, obviously, it gets more expensive as they go. So I'm, I'm saying within the next five to ten years after we do these last few projects, bonding authority will probably not have a benefit to us and we won't have to use it again. And, and so it just doesn't look like the economics work out that way.

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BOSTELMAN: And can you explain the difference to me why you would need these to be a wet dam versus a dry dam?

JOHN WINKLER: Yes. So-- and I can send you some information, and, and it's, it's dry dams. We've had the engineers look at this and I'll send it to you-- some information, as well as with the financing. But there's certain soils in our district that need to be-- to remain wet to, to-- because they're high hazard dams. And the engineers that we work with and we talk to indicate that they may be applicable in some spots, but there's a safety factor to them. And so the dams that we construct, obviously, they are of the opinion and recommend that they're wet dams because of the certain soils that need to remain moist to provide that type of level of safety. And I can send-- it's a, it's a white paper, it's not real technical, but it kind of gets down to the why dams are not effective in our district.

BOSTELMAN: And the last question I have for you surround each one of these dam sites-- what's gonna-- is it gonna be green space around them? Is it gonna be houses around them? What's gonna be around each one of these, these facilities you put in?

JOHN WINKLER: So right now they're building so fast they're houses. But the local jurisdictions we work with are reserving the land that we need for the project. And what we do is when we, we plan a project, we buy land for the permanent pool and then we buy land for the flood pool. And the flood pool significantly different than the permanent pool. And so what that does is that leaves a significant amount of park land around the, the reservoir around the lake. The District, a number of years ago before I started, they, they tried an experiment where they did a project in Bennington where they worked with a private developer to build the lake and, and there was houses that were kind of built right on the edges and there's limited public access. That's something that I didn't agree with and wouldn't approve of and I know my current board wouldn't. I think it was an experiment they tried to get some economies of scale. But all of these are 100 percent public access. They have quite a bit of green space around them. They all vary in distances and acres. But, we can only buy what's required for the project. All the land outside of that area, it's up to the landowner. They could build houses. They can farm it. They could turn it to native prairie. It's totally up to them. We have no control over that. But, typically, we build a project and you see subdivisions pop up around it. But, now we're in a situation where we don't even have a project and there's subdivisions popping around it.

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And so, basically, this land will either be a reservoir or flood control project or it'll be rooftops and driveways.

BOSTELMAN: OK, thank you.

GRAGERT: One more.

HUGHES: Senator Gragert.

GRAGERT: Thank you, Senator Hughes. My experience with flood control really started at the top of the watershed and worked down. I don't-- like up here in Washington County, there aren't any structures at all. I guess of any-- any type of what is-- why is that?

JOHN WINKLER: So in Washington County, they've been opposed to structures in that county. And so we've heard that loud and clear and so we're not going-- we don't have any plans to build any structures there or any desire to build any structures there. What they have done is in their zoning ordinances and in their plan they're using what you call a maximum low-impact development. So what their plan is, is to make every subdivision try to retain that stormwater on individual sites. And so that's their, their way of handling it. And so we've, we've said, hey, we've got other projects that we need to focus on. Sarpy County and, obviously, all the cities are, are agreeable and, and want to go the regional detention route. And so that's what we've been doing. And so we have no, no plans or no desire to put any structures in those counties.

GRAGERT: Thank you.

JOHN WINKLER: Yep.

HUGHES: Any additional questions? Senator Halloran.

HALLORAN: Thank you, Chairman Hughes. I, I had to leave for a few minutes. So if this question's been asked, say so, and I'll read the testimony. But being from a district that doesn't experience a lot of flood issues, I'm not sure I understand nearly enough about the dynamics of controlling for-- to control against floods. But, but when a reservoir is 90 percent full of water and you have a, a five-inch rain, and it's more than those-- the reservoir is gonna fill up quickly and spill over, right? So, I mean, I, I don't-- I'm trying to understand how reservoirs really facilitate controlling floods?

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JOHN WINKLER: So, so our reservoirs are designed for a 500-year rain event, and so that and probably in our area would be several feet of rain. And so it's not unusual for our current reservoirs when we get a three-inch rain or a four-inch rain, the, the reservoir will raise four or five feet and then it slowly drains out over a period of time. So anything short of a 500-year rain event that reservoir will retain that water and slowly drain that water. If it's anything over a 500-year rain event, which would be a catastrophic type of rain event, there's safety features in the dams where they have an auxiliary spillway. And so that prevents the dam from failing, and the reservoir from failing, and then so that bypasses the, the dam. We have-- well, maybe sometime in the future, we'll have a 500-year rain. We hope not. But, we haven't even had a 100-year rain event in, in a number of years. And so that's what, what particularly we plan to but then also since these are, these are dams that are high-hazard dams in, in urban areas, they have to be built to a 500-year level. So if you ever see one that's overtopping or going around the auxiliary spillway, there's a lot of problems, and there's a lot of water. And, and so the, the dam would be our least, probably our least concern, because they're built to withstand those.

HALLORAN: So the water level will tip-- typically for these reservoirs is obviously some level before-- below the spillway obviously.

JOHN WINKLER: Right.

HALLORAN: And so once you have an extraordinary rain, then that reservoir widens out.

JOHN WINKLER: Right.

HALLORAN: I mean, you're, you're, you're--

JOHN WINKLER: Right.

HALLORAN: You have a localized flood, right?

JOHN WINKLER: Right. Typically, it spans out in the park area because we have to buy all the land that we need to hold that 500-year event. So it'll all be park area, green space, no structures that can be damaged. And then over time that will slowly drain itself out into the receiving body of creek or stream, and it will retain that water from being flushed all at once.

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HALLORAN: So how many reservoirs do you need to manage and control the 500-year--

JOHN WINKLER: Well, so, so-- well, well, we'll never control the 500-year-- and, and, and you'll never stop all flooding. I mean, it's just-- it's not possible. You can't control where rain maybe goes in, in certain parts of the community or, or the area. But you can, you can, you can limit the impact, and so you'll never get a 100 percent flood protection. It's, it's just not possible. But, you will see in what we've seen from our studies with FEMA and our remapping effort is that these are having an impact. And it-- our goal used to be that we hoped the flood plain wouldn't increase, but now we're seeing it's actually decreasing, because we built these structures, because of new data, and new modeling techniques. We're actually seeing these things reduced. And so that's a huge, you know, if you're a, if you're a family struggling-- you know, a family-- a middle-class family and you're paying three or four hundred dollars a month in flood insurance and all of a sudden you get a letter that says, hey, you're no longer required to do this. You're gonna spend that money in the local economy. Or you're gonna save it, or you're gonna send your kids to school, or buy furniture, or whatever. So that's what our, our aim is. In fact, we even had somebody from the federal government-- they go, why do you want to reduce flood plains? And my question was, why not? We have people that are subsidizing flood insurance from other parts of the country that aren't in harm's way. And so why wouldn't we, why wouldn't we want an accurate flood plain map? Why wouldn't we want to reduce our flood plains? And so that's what we're trying to do.

HALLORAN: Thank you.

HUGHES: Additional questions? I have just a couple. Talking about the flood plain in your testimony, you, you say where you've actually reduced the flood plain by 10 to 15 percent-- that, that's accurate? That's in the Metropolitan Omaha areas?

JOHN WINKLER: Yep. And those-- the draft maps will be out in '19 and the final maps in 2020. Now it's not an even 10, 15 percent all over, but it's, it's in typically in the lower parts of the watershed where they have the most flooding-- Papillion, Bellevue-- those areas.

HUGHES: So those homeowners have gotten the benefit of being removed from the flood zone?

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JOHN WINKLER: They will when the maps are produced because you have to have maps.

HUGHES: But, not yet?

JOHN WINKLER: Not yet.

HUGHES: OK.

JOHN WINKLER: But all, but all of our data shows that those will be taken out. In fact, the city of Papillion we will take their entire downtown out of the flood plain in 2020.

HUGHES: So our data-- your data or the city of Papillion's data?

JOHN WINKLER: Well, our data-- no, our data with the federal government's data. The federal government's doing the mapping right now.

HUGHES: OK.

JOHN WINKLER: Yep. We partner with FEMA to do the maps.

HUGHES: OK. Then also, also, I thought you said that if, if we would extend this bonding authority it does have to go to a vote of the people?

JOHN WINKLER: Only the addition-- so if, if you extend it we get one cent that the board can approve by a supermajority and then in statute there is an additional one cent if-- so it'd be two cents. You could go up to two cents. That has to be approved by a vote of the people.

HUGHES: Oh, OK.

JOHN WINKLER: Yeah.

HUGHES: OK, very well.

JOHN WINKLER: Yep.

HUGHES: Any other questions? Senator Moser.

MOSER: Sorry, I missed part of the discussion. I had a stage lighting problem that I had to correct for a school. They've got a show tonight and their stage was dark. So I have to,--

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JOHN WINKLER: I get on the basketball court a lot. [LAUGHTER]

MOSER: --I have to do two, two different things to make a living. Do you sell some of the ground that you acquire for subdivisions and do you recoup some of the money that you spend?

JOHN WINKLER: So sometime-- yeah, we have in the past and what happens is a lot of times we'll-- if we buy land from a landowner and just say that we're gonna leave them a remnant or maybe they just-- we're gonna buy 40 and they've got 80 and they say, you know what, can you buy the whole thing? And, and we-- and our board will do that. Now it's on a case by case basis but we could say, yeah, we'll work with the landowner and we'll buy the additional land. And, and not that that land is needed for the project, but, again, we're working-- we're trying to be good neighbors, we're trying to work with the landowner. And so we have in the past and it happens very rarely that the district will decide that, you know what, this is surplus land we don't need it for the project and we put it out for option so whoever [INAUDIBLE].

MOSER: So are some of these properties buildable? Or are they all just floodings, reservoirs?

JOHN WINKLER: Some are buildable, some are not. It just depends where the property was.

MOSER: These landowners aren't getting any kind of a windfall or anything in buying the property. I mean, you spend all the money on the lake and then you sell the ground to them. It, you know,--

JOHN WINKLER: It happens very rarely. Maybe a few projects that we've-- we've actually purchased land that we've-- that we didn't need but then we sold it at, at another date. And again it's sold-- there's a very public process-- it's auctioned off and there's bidders and so, you know, anyone could buy it. Things-- they could build something there or they could farm it. It's just up to whatever they wanted to do it. But, yeah, we have done that in the past.

MOSER: All right, thank you.

JOHN WINKLER: Yep.

HUGHES: OK. Seeing no more questions, thank you, Mr. Winkler.

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JOHN WINKLER: Yep, thank you.

HUGHES: We appreciate you coming. Additional proponents to LB177?
Welcome.

JIM THOMPSON: Good afternoon. Jim Thompson, J-i-m T-h-o-m-p-s-o-n. Currently a board member of the Papio NRD. Currently serving as chairman of the Papio NRD. My 20th year on the board, I've seen a lot of action over the years. John has been with us, not quite that time, I think ten years. So I've got some history with the board. I've been on the "prebonding" issues. It took us a long time to get bonding. Ten years ago we had a lot of people saying all this bad stuff's gonna happen. The main thing was we're going to raise taxes. John testified, we have not raised taxes. We had our ten-year authority expires, of course. We want that tool available. We need that tool available. It's a financing tool. It's not a let's go out and steal farm land type tool. We, we don't operate that way. The six dams that are under design right now, we may or may not use bonding authorities should it be extended. I hope it does, because each one is different. They're different sources of money. It's permissive legislation that we can use or we can't use. It's not a requirement use bonding authority. I found over the-- my tenure on the board and in the NRD system that a-- that's a great tool to have. You'll hear some negatives. Obviously already have that, and some information about, about things and one of them is we only do this for developers. And in, in conjunction with your question is-- and John answered very well, we only buy what we need for the, for the lake-- for the, for the structure and what happens beyond those boundaries, it's not our control. We don't care. We don't have zoning authority, nor do we want zoning authority. So wherever this structure might be-- leave it up to the county, the city, and the municipality involved in what they want to do or allow for it to be done beyond the borders of the dam control structure. And, no, we aren't gonna raise taxes. That's another one of your-- raise taxes, no. We a-- we maintain our levy as John mentioned. We've done it prudently. I can honestly say that with the staff we have, especially in the last ten years, we've cut personnel, we've streamlined. We've, we've done the best we can with our 3.7-- or, yeah, 3 cents-- 3.75 cents on the dollar that is pretty low and when you look at your tax bill we're down there-- almost at the bottom. Educational Service Units are below us. But, we need this tool to do our job. Certainly encourage a passage of this through the committee and to the floor. There's, I think, seven sponsors for the bill across the lines-- nonpartisan, as it should be, to help us do our work. I've

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also just finished up my four-year term on the Natural Resources Commission. I didn't get up to talk about Don, but he's a good man. I hope you approve him. With the 40 percent that sponsors are required to get on those, on those projects, we're fortunate-- the NRD-- we've got a large tax base. We've got two projects approved on the Water Sustainability Fund. I feel comfortable when, when we get those approvals that we have a mechanism whether it's bonding or not to, to create the structures that need to be done. Mr. Winkler mentioned the federal dollars that come in-- state dollar appropriation for the levee was wonderful, that was last year. We appreciate that, and so on. I don't know why Papio's the only, the only NRD. I got a suspicion that the experiment ten years ago was, was an experiment. We showed that the experiment was successful-- very successful and saving the taxpayers millions of dollars to create these structures. To continue to wait as prior administrations of the state, pay as you go, pay as you go, you all know that the longer you wait the higher construction costs here-- are. Land values especially in Sarpy County are going through the roof. Should add that our, our district runs six counties from Dakota City-- or Dakota County up north where we have the beautiful Kramper Lake and the Danish Alps area on down through Sarpy County. And so Sarpy County is going as fast is-- as it is the more runoff you get at the bottom of the funnel that as much as we want to start the watershed we're doing what we can with the creek system-- the three main creek systems running through. And so where-- we get our fingers crossed for that ungodly event that only he has in charge of to send water our way so we're trying our best to keep it under control. It's a, it's a, again, an action that a-- that we enjoy as directors to use when necessary. It's not utilized all the time, but we certainly hope that it can continue for the next ten years. Thank you, and if you have questions, I'd be happy to answer them.

HUGHES: Thank you, Mr. Thompson. Are there questions? Senator Halloran.

HALLORAN: Chairman Hughes. Mr. Thompson. How many, how many board members are there? How many directors are there?

JIM THOMPSON: There are a-- there are eleven, and we, we get to fill a vacancy tonight, so there will be a full capacity.

HALLORAN: Any farmers on that board?

JIM THOMPSON: I don't think so.

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HALLORAN: OK, thank you.

JIM THOMPSON: No, mostly because we do go by a-- the population-- one person, one vote. Most of our members are-- there's two in Sarpy County, one that covers northern Douglas County and up to Dakota County, and then the rest in the Metropolitan area of Omaha.

HALLORAN: OK, thank you.

HUGHES: Senator Moser.

MOSER: You say you didn't raise taxes, are you talking about the tax levy or actual tax collected.

JIM THOMPSON: The tax levy.

MOSER: So-- and, and what about your actual tax collected?

JIM THOMPSON: Well, you know that's at the mercy of valuations that come in and that's a discussion you folks are, are having as a-- as the session proceeds. So, I mean, that's beyond our control. We respond-- we've got six counties that we deal with, with the valuations. Douglas County being the most-- biggest one of course.

MOSER: Uh-huh. Thank you very much.

HUGHES: Additional questions? I guess I do have a couple. So to follow up on what both of my esteemed colleagues started with you just-- the values are going through the roof so you have much more property coming on the books so your tax asking is escalating as well?

JIM THOMPSON: You could look at our budget, and our budget increases because of that. Our actual spending is less than what our budget shows. For example, we budgeted \$70 million for this fiscal year. We only spend about thirty-five or thirty-eight of that. We're, we're fortunate-- and whoever set this up in the state of Nebraska, that we do not have to spend as we go. The earlier question about how much money we have, thank God we got the authority to carry it over. I'm a former employee of federal government and come the end of the fiscal year-- my goodness. Money spent all over the place which to me was a complete waste and I'm fortunate to be in a position where I don't have to worry about spending [INAUDIBLE].

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HUGHES: But your budget has been growing because of the-- we'll call it a windfall or whatever of rising property values.

JIM THOMPSON: Well, we won't know that until 2020, because of-- especially with Douglas County. Mine went up. So especially in Douglas County-- by the time we have to pay that, then we'll look at our budget and then we talk. There'll be discussion amongst the board members-- how do we want to react, because there's a bill saying we're going to have to limit it anyway.

HUGHES: So your budget has been flat prior to that? [INAUDIBLE]--

JIM THOMPSON: No, it's increased because the valuations that have obviously increased over the years.

HUGHES: What, what kind of an increase have you been getting?

JIM THOMPSON: I, I think about 3.1 percent overall-- little over 3 percent. Some, some jurisdictions were higher, some were lower when we passed our budget--

HUGHES: OK.

JIM THOMPSON: --in, in September.

HUGHES: So and we talked about the-- your, your districts are based on population-- are they kind of square or are they longitudinal-- north and south, east and west?

JIM THOMPSON: They're, they're kind of square. The exception being District 1-- which-- South Sioux City on down, but they revise-- the Metropolitan Area Planning Agency looks at the census every ten years and looks to see where's the population. And my district changed from kind of a Kentucky shaped district down to a Arizona State district-- shaped district. So it, it varies depending on the census and they do the valuations. Fortunately, for us last time round they've kept us all within eight [INAUDIBLE] so didn't have to run against each other.

HUGHES: OK, and someone else draws though-- that was the [INAUDIBLE]--

JIM THOMPSON: Yeah, the Metropolitan Area Planning Agency submits a map to us-- our board approves them, which I've been on there twice now since we've had to approve it and it's usually, yeah, OK.

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HUGHES: OK. Any other questions?

ALBRECHT: Can I just ask one question?

HUGHES: Senator Albrecht.

ALBRECHT: Thank you, Senator Hughes-- Chairman Hughes. So if this didn't come out of committee and you didn't have those extra ten years, would the cities or whoever you're working with have to do their own bonding with you helping out or what would happen?

JIM THOMPSON: Well, we've, we've got the authority-- we've got the, the responsibility by state law to provide flood control.

ALBRECHT: Um-hum.

JIM THOMPSON: And so the cities provide it. You're flooding out my properties. They, they don't have the authority to build. They probably can, but they've got other priorities. So, they--

ALBRECHT: But, but you could still continue to do business without a sunset, correct?

JIM THOMPSON: Without what?

ALBRECHT: Without this, this date changing from 2019 to 2029. You'd still be doing the same thing [INAUDIBLE]--

JIM THOMPSON: Well, if, if we needed \$30 million and we don't have the ability to bond it, let's take out a loan, Lake Wanahoo was a \$25 million loan, Lower Platte North.

ALBRECHT: OK.

JIM THOMPSON: What did they pay for that loan? I don't know. And that's a rhetorical question. But to issue government bonds is a heck of a lot cheaper. We had a favorable tax rate that's good for everyone. Assurance that this government agency be around is very important.

ALBRECHT: And, and just one other quick question. When you go out for the, for the vote of the people, it's everybody in your district, correct? The whole watershed of the Pappio?

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JIM THOMPSON: Yeah, the entire district. That's only if we want to exceed the one penny that's currently authorized.

ALBRECHT: OK.

JIM THOMPSON: And if extended that one penny would still be authorized. It would still require-- if we exceed like-- we, we need \$60 million. Well, we-- John mentioned, \$80 million for these six. Let's say we need, for some reason, \$100 million and it was-- you know, we'd better go out and instead of one penny within our limit, maybe we need to go up for another penny. That would have to go, go to the vote of the people for the entire district,--

ALBRECHT: OK.

JIM THOMPSON: --which-- up there in north-- northeast Nebraska and it may be easy in the population of Omaha, who knows.

ALBRECHT: Yeah, thank you.

HUGHES: OK. Any additional questions? Seeing none, thank you, Mr. Thompson. We appreciate your testimony.

JIM THOMPSON: Thank you.

HUGHES: Any additional proponents? Welcome.

JACK CHELOHA: Good afternoon, Senator Hughes, members of the Natural Resources Committee. My name is Jack Cheloha, that's J-a-c-k, the last name is spelled, C-h-e-l-o-h-a. I'm the lobbyist for the city of Omaha, and I want to testify in support of LB177 this afternoon. I was directed by Mayor Jean Stothert to testify this afternoon in support of this bill. Fortunately or unfortunately, I've been in the lobbying business long enough now that I remember the previous bill ten years ago and I think the honorable Tim Gay carried the bill back then. And, and of course there was good debate on it then and a lot of good questions, and I, I see a lot of the same issues are coming forward today. And that's, that's good, that's good for democracy. We think in Omaha that this is a good bill, frankly, because the city of Omaha is roughly 450,000 residents. The Metro area itself has over one million in it if you include Sarpy County and northern-- north of us in Washington County, Blair, etcetera. And, and including across the river in Council Bluffs. And so it's important to us to have good flood control. And, obviously, we the city have benefited from it. In the course of study in a little bit up on this bill prior to

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testifying, I asked some questions of our Public Works Department and our Parks Department and, and they have many good things to say regarding our local Natural Resources District that we have many interlocal agreements in place. We work with them well to provide services to the cross citizens. And within each of our districts, we think it's important to have safe drinking water, obviously, and then we need the flood control to not only save property but also to save people as well. And for those reasons because this isn't the increase of the levy authority or tax increase, etcetera, we think it makes sound fiscal policy to move this bill forward, and we would support LB177. Thank you. I'll try to answer any questions.

HUGHES: Thank you, Mr. Cheloha. Any questions? Seeing none, thank you for your testimony.

MOSER: I, I just have one.

HUGHES: Oh, I'm sorry, Senator Moser.

JACK CHELOHA: Yes, sir.

MOSER: If the city doesn't want to tackle any of these things on their own, they rely on the NRD to do it? I mean you could, couldn't you?

JACK CHELOHA: Well, certain things we work on but, but in terms of flood control that's not necessarily our domain. But, as we do, do planning and, and issue preliminary reports, etcetera, and SIDs, and other entities-- I mean, we do have to take into account the flow of the water and any water flow areas within SIDs or on the-- and whether it's in the city-- on the outskirts, etcetera. But, but it really comes into play with us where we can work together, Senator Moser, relative to if we do have these dam structures, sometimes we can give the people or citizens more bang for their buck by partnering and setting up maybe a park in the area or things like that. So instead of us going alone and setting up a park, we work with the NRD and colocate it. So--

MOSER: What, what percentage of the city of Omaha overlaps the NRD area?

JACK CHELOHA: All of Omaha proper is within the Papio-Missouri SI--SID. So [INAUDIBLE]--

MOSER: And it even goes a little south of you yet?

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JACK CHELOHA: Yes, it goes south into Sarpy County, but as you heard, too, Senator, it goes as far north as Dakota County as well.

MOSER: Yeah.

JACK CHELOHA: Yeah.

MOSER: OK. Well, thank you very much.

JACK CHELOHA: Um-hum.

HUGHES: Any additional questions? Seeing none, thank you, Mr. Cheloha.

JACK CHELOHA: Thank you.

HUGHES: Any additional proponents to LB177? Seeing none, we'll open it up to opponents of LB177. Welcome.

SHAWN MELOTZ: Good afternoon. Thank you to, Chairman Hughes and the members of the Natural Resources Committee. My name is Shawn Melotz, S-h-a-w-n M-e-l-o-t-z, and I respectfully come before you to testify in opposition to LB177. My family operates a dairy farm in northern Douglas County, and we have been engaged in the dam building project for 50 years. It's been a long battle and here we are today. I'm also a certified public accountant and the current president of the Papio Valley Preservation Association, known as the PVPA. We are a grassroots organization with over 500 members. Our mission is to protect our natural resources within the Papio Creek Watershed which is located in Sarpy, Douglas, and Washington counties. We were originally organized in 1971. So we've been around for a while. For those of you who are new to this committee, I'd like to provide a brief history behind the Papio NRD bonding. In September 2004, the Omaha World-Herald leaked a story about the Papio NRD's intention to construct dams for what I say quote flood control along the Papio Creek in Sarpy, Douglas, and Washington counties. Since that time, the Papio NRD's plan has evolved from 10 structures to 29 structures at an estimated cost to taxpayers of over \$80-- \$980 million. These dams do not include the costs to the ones that are located in Washington County-- or proposed in Washington County. With this high price tag, the Papio NRD needed more funding, and beginning in 2004 they approached the Legislature for bonding authority. In 2009, they received this bonding authority which included a ten-year sunset. And this was done through LB160 which is now a state statute. This state statute allowed the Papio NRD to issue of general obligation bonds

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simply by the vote of their 11-member board. As a side note, yes, there are no farmers on this board. With the Papio NRD's existing power of condemnation and their ability to issue bonds, property owners are defenseless. And while I heard that they rarely use condemnation, I believe the threat of condemnation is more scary than actually going through the process because our family's been there. During the LB160 debate and compromise process, I had the privilege of representing the PVPA here in Lincoln. Senators understood our concerns and placed what they believed were several protective measures on the bill, which included the sunset of December this year. And here we are today with the Papio NRD again asking for more money through our property taxes. It is important that you are aware that Papio NRD attempted to double its bonding authority in May 2016's primary election. The initiative was resoundingly rejected by voters and I've attached to my exhibits a copy of the World-Herald account of that rejected initiative. And also know that the Papio NRD has yet to fully utilize their tax authority. My handouts include information and graphs regarding the Papio NRD's financial facts. And I would ask you to refer to them as I go through them in a simplistic manner. It summarizes their continued increase in property tax assessments. I was a little taken back by the fact that they believe they have not increased their property taxes. But if you look at this graph since obtaining bonding authority the NRD has raised-- the valuations in their districts have gone up 30 percent. But at the same time their property taxes have grown 49 percent. They have raised in 2010-- the property tax assessment was \$16 million, it is now almost \$25 million. Their cash balances have doubled from \$12 million to \$26 million. Now what I would like to also point out is that my exhibits demonstrate that their bonding does increase taxes, and it's-- and I ask that, that you don't extend this authority and allow us to be able to require them to use cheaper less intrusive measures of flood control. I also brought with me, and I am sorry I didn't bring it as a handout, a copy of their budget. And as I look at it, of the \$25 million, yes, there's quite a few of them that are applied to projects, but their general fund currently holds, holds \$11 million, and their annual administrative budget is \$10 million. So it is not one year, it was-- it's-- or one month or two months, it is one year of operations and I'll leave this with the clerk so that they have a copy of it. With that, if you have any questions or anything I can provide additional detail, I'd love to have the time to go through these other graphs, but in this sense of time I'll allow-- I'll stop. Thank you.

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HUGHES: Thank you. Are there questions? Senator Moser.

MOSER: Where is your property on this map that they gave us?

SHAWN MELOTZ: Actually, our property-- there are three dams slated for our properties. And I--

MOSER: You're scheduled for projects in your--

SHAWN MELOTZ: From my understanding, yes.

MOSER: So right now they don't have a [INAUDIBLE]?

SHAWN MELOTZ: Yeah, they're in-- they're on that map. I can show--

MOSER: But I-- but you don't have their dams on your property at this time?

SHAWN MELOTZ: Correct.

MOSER: OK, thank you.

HUGHES: Additional questions? Senator Albrecht.

ALBRECHT: Thank you, Senator Hughes. And could you just, just briefly run through these other three exhibits since you've given them to us, so that we know what we're looking at.

SHAWN MELOTZ: Sure. The first one, I, I went through rather quickly. It shows the property and tax increases of course. And it also goes through how much the cash has grown and how much the budget has grown. And the second one and the third one and the fourth one displays the impact per county. And if you notice the valuations in Douglas County have increased 23 percent and the property taxes have increased 41 percent. So the property taxes are growing in excess of the valuations. Sarpy County-- the comparison is 41 percent to 62 percent, and that is the same for Washington County. You can see the increases are there every year. This is taken from their budgets and their information. The final page shows-- of the exhibit shows that over time of the \$71 million of bonds that are issued, it's actually going to cost taxpayers \$109 million to pay the bonds through interest and principal. Now what that's telling me is you start this all over again and you've given them the authority and they get the one percent levy increase you're doubling that and you're also passing that burden over to my children and my children's children. And again there are

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alternatives-- there are ways to control flooding and, and they're just not being adhered to and respected.

ALBRECHT: Thank you.

HUGHES: Any other questions? Senator Bostelman.

BOSTELMAN: Thank you, Chairman Hughes. On this map, are three of these dams on your property?

SHAWN MELOTZ: They will be.

BOSTELMAN: The ones that they have identified?

SHAWN MELOTZ: Correct.

BOSTELMAN: So are they ones-- I know it's--

SHAWN MELOTZ: One's 9A, one's 10, and they're in the northern-- north eastern part of Douglas County.

BOSTELMAN: Maybe we can look afterwards--

SHAWN MELOTZ: Yeah, I can--

BOSTELMAN: because the ones they have on here is 1, 2, 4, 19, 12, and 7.

SHAWN MELOTZ: They're on the plan, they must not put them on the map. I can give you the information on that.

BOSTELMAN: OK, thank you.

SHAWN MELOTZ: Yes.

HUGHES: Additional questions? I guess, I've, I've got one. You talk about alternatives to wet dams, dry dams-- other, other things?

SHAWN MELOTZ: Well, there's dry dams-- there's, there's dry dams and it's interesting that I just heard today for the first time and I, I regularly attend meetings. I regularly attend workshops. Today was the first time I heard that a dry dam won't work because of the soil which is confusing to me because we have very good clay, Kennebec soil that is very rich and, and very capable I would imagine. If a wet dam can be held in this soil, I don't understand why a dry dam could not. There's what's called conservation design and that's more designing

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the developments so that the high portion or the high area is where the houses are built and the low portion of the-- or the low-lying areas or where you put the swing sets and the soccer fields and everything else and you do a better fit of low-impact development. And low-impact development or bio swales, there's retention ponds, there's, I mean, the list goes on and on. And I can provide you the multiple options that are available.

HUGHES: And, and you feel they would be cheaper in the long run?

SHAWN MELOTZ: I know they will. Their studies show they will, but there isn't interest in doing that by this board.

HUGHES: OK. So-- you know, the, the benefit of building these dams comes into the decrease in the flood plain-- the homes, the businesses-- other than the fact that their values should raise because they're out of the flood plain and they will be charged more on their levee that we require to pay more in the levee at the NRD. Is, is there any other way that that value could be recouped from those who are actually truly benefiting from this. Any-- as an accountant, can--

SHAWN MELOTZ: Well, I don't--

HUGHES: Is there an accounting procedure we can implement here?

SHAWN MELOTZ: I, I don't believe the values are impacted on whether they're in the flood plain or not. I think the values are the values and the county comes out and says, guess what, your house is worth-- and this is what you're gonna pay.

HUGHES: Well, I just-- I, I would think if you're in a flood plain or not in a flood plain would certainly affect the value of your house.

SHAWN MELOTZ: It, it will-- but I don't know if the county's giving you that discount when they assess it for taxes. And I, I don't know the answer to that and I'd probably better not even respond. But, whether it's wet dam or dry dam and they're decreasing the flood plain, there's a benefit on both sides for people coming out of the flood.

HUGHES: Senator Moser.

MOSER: Have you ever thought about running for the NRD board?

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SHAWN MELOTZ: Yes, I did. I have ran, and I did not win.

HUGHES: OK.

MOSER: All right, thank you.

SHAWN MELOTZ: Yes.

HUGHES: Thank you. Ms. Melotz.

SHAWN MELOTZ: You bet. Thank you.

HUGHES: Additional opponents? Welcome.

DOUG KAGAN: Good afternoon. Doug Kagan, I represent Nebraska Taxpayers for Freedom. Our financial professionals analyzed the--

HUGHES: Mr.-- Mr. Kagan, could you spell your name, please.

DOUG KAGAN: Oh, yes. D-o-u-g K-a-g-a-n. Our financial professionals analyze the Papio-Missouri River NRD budgets and its other financial documents. We note the same trends that do a disservice to taxpayers. Its budgets regularly overestimate the revenues needed or subsequently expended and regularly project too much revenue required for the next fiscal year. A continual escalation that artificially raises the property tax requirement. In addition, continued overspending abounds on line items in the budget that are not the core responsibilities or obligations of the NRDs, which are flood control and erosion prevention. The Papio NRD current budget shows \$6 million more in cash on hand, much more than required. This NRD retains too much cash on hand, thereby fueling increases in the next budget. Thirty-three point eight million over budgeted from last fiscal year with only a little over fifty-five percent of projected funding actually utilized by the various departments in the NRD. So if you look at 13 separate revenue accounts, you'll see the NRD actually accrued much more than budgeted in fiscal year 2018, an indication of poor budgeting of anticipated revenue. Monies for operations reserves boost the property tax load resembling in our opinion a slush fund. In too many accounts figures indicate that although amount spent were less than initially budgeted in fiscal year 2018, the NRD nevertheless budgeted similar high amounts in fiscal year 2019, again boosting property tax requirements. And you have to note that the NRD does not lower the property tax rates to factor in the valuations. That is local taxing authority sometimes will tell taxpayers: well, don't blame us, we didn't raise your property taxes because we didn't raise your rates. But, in fact,

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they're getting more dollars in property taxes because the valuations went up. The board regularly votes to exceed previous budgeted expenditures for services rendered. For example, we find no apparent reason why the NRD spent \$100,000 to dredge a private development SID lake. We find, what we term, creative accounting. Listed budget items, duplicate items of the previous budget, projects either were not done, the expense carried over or double billing of taxpayers occurred. If a project carries over into the following fiscal year, the NRD should-- but does not refer back to a budget deduction in its previous budget. NRD budgets consistently over fund projects, list a lower actual value-- actual expense, and then the following budget continued to over fund the same projects. Budget padding. The board continues bonding a request to plan for mud bottom lakes that mostly benefit private developers instead of utilizing less costly low-impact development like dry dams, terracing wetlands, and things like buffer strips. And you heard the NRD board chairman say that Washington County doesn't want dams. They've put in low-impact development and it seems to be working. Well, if it works in Washington County, it should work in Douglas and Sarpy County also. This while micromanaging how farmers manage their groundwater, this NRD board has not accepted any of our suggestions for budget cuts and has expressed a continual hostility to our presence at its board meetings including removing items from its agenda to prevent us from speaking on such items. In conclusion, we believe that the Papio NRD is not fiscally conscientious or accountable with its regular property taxes collected and does not deserve further bonding authority. We urge you to vote no on your LB177. Thank you.

HUGHES: Thank you, Mr. Kagan. Are there questions? Do you live in the, in the Papio watershed?

DOUG KAGAN: Yes, I live in Omaha.

HUGHES: OK. So in the-- your Nebraska for Taxpayers Freedom-- I mean, is this just something you did because it affects you? Or is this a con-- did you contract with somebody to do this?

DOUG KAGAN: No, we have a-- our organization's based on projects. And one of our projects is we call NRD watch, and we, we monitor and lobby Papio NRD board.

HUGHES: Is that the only one-- only NRD or [INAUDIBLE]?

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DOUG KAGAN: Well, we have some members out in outstate Nebraska and they monitor their NRDs also.

HUGHES: OK, thank you.

DOUG KAGAN: Yeah.

HUGHES: Seeing no other questions, thank you, Mr. Kagan. Additional pro-- opponents? Welcome.

GRANT MELOTZ: Good afternoon, Senators, and thank you, Chairman Hughes. My name is Grant Melotz, G-r-a-n-t M-e-l-o-t-z. I want to thank you for allowing me to speak against LB177. The NRD's main mission is to idly conserve, manage, and enhance our soil, water, wildlife, and forest resources. I'm certain you Senators agree, especially those who are former NRD board members. As a fourth-generation farmer who has, and will continue to farm for my entire life, my family and I believe in protecting our land by installing terraces on every one of our farms to prevent soil erosion, as well as controlling flood risk. We have worked with the Papio NRD for numerous years cost sharing on these terraces since our farm ground is very hilly on our side of the state. We have also worked with the University of Nebraska at Lincoln to ensure that the runoff from our family's dairy farm does not enter into the water system. We have taken extra steps of planting grass buffer strips between our fields along the creeks for an additional layer of foot-- flood protection without reimbursement. We believe in protecting our lands and the landowners downstream. Even in today's crazy world, we believe in taking care of your neighbor. As a master of science graduate from the University of Nebraska at Lincoln in agricultural biological systems engineering, I'm perplexed about the NRDs-- Papio NRD's push for wet dams for flood control. They ignore alternatives. A dry dam could fill during a major storm which would be more beneficial to prevent flooding within the Papio Creek. And, yes I said Creek, one that I can jump across. Using a dry dam approach, we could continue to farm our land. So I asked myself, why if the NRD's main goal is to conserve and enhance our resources, do they only allow for \$800,000 of the \$72 million budget for terracing? Let me say that again, only 1 percent of their budget assists farmers upstream. The rest of our property taxes are spent on trails, bike paths, playgrounds, and big ticket items-- wet dams. And why is their only solution to flood control wet dams? Or why is the Papio NRD down here asking you, Senators, for more money when the people spoke during the 2016 election and turned down their requests for more bonding? Or why does

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the Papio NRD push-- or, excuse me, why doesn't the Papio NRD not push for more regulations to prevent developers from filling in the flood plain so houses can be built. If the Papio NRD's mission is really about protecting the people and our natural resources, why wouldn't they lobby to change these regulations? This change would not cost the taxpayers anything and could solve a lot of potential flood risk within Omaha. I believe these questions need to be answered by the Papio NRD before they are handed an open checkbook. Besides farming, I am an accountant and I always ask this question to the client, do you really need to borrow the money? If you don't need the money and could solve your problems with alternatives, then why go into debt? I ask this committee to stop LB177 from advancing to the floor, and make the Papio NRD find alternatives to costly wet dams. Thank you for your time, and are there any questions?

HUGHES: Thank you, Mr. Melotz. Senator Gragert.

GRAGERT: Thank you, Chairman. I'm just interested-- that is a good question, \$800,000 out of the \$72 million. Do you, do you know of any producers that have ever been turned down for cost share monies on terraces, dry dams, that type of things?

GRANT MELOTZ: Terraces-- yeah, since the budget is very low for our area the \$800,000, they turned down. We actually-- what we do since we're kind of a dairy farm we can-- they do-- they place more emphasis on cost sharing during the summer. So we'll plant oats on our farm ground and then kind of chop it right away so you can take care of oats early and then do the terraces in the summer, rather than trying to find money in the fall and stuff.

GRAGERT: So other conservation practices have been turned down up in the higher reaches of a--

GRANT MELOTZ: I wouldn't know the answer to that question.

GRAGERT: OK, thank you.

HUGHES: Additional questions? Seeing none, thank you for your testimony. Additional opponents? Welcome.

JASON CLOUDT: Thank you. My name is Jason Cloudt, J-a-s-o-n C-l-o-u-d-t. I and my family farm in rural Douglas County and Washington County. Been a part of watching the evolution of the, of the NRD over the course of my life and have been involved since the

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2004 study. One of the things that's, that's interesting to me that if there was a true need for flood control the NRD would be utilizing less intrusive and nontaxpayer funded methods for accomplishing this need. They're not. Obviously, the one thing we hear about, and we heard about from them up here today and what they're asking for is a single method for flood control and that's building these reservoirs. I had the opportunity to sit in a joint session with the Corps of Engineers and the NRD just this past winter where they're working on a study and Mr. Winkler brought that up today to do some cost sharing. And at that meeting, I had the opportunity to talk to some of the folks in the Corps of Engineers and I asked where else in the country are, are these dams being built. Is that the only solution. And I talked to three different people there today and they scratch their heads and they didn't have an answer. There are not other areas of the country where the only way to prevent rainfall from flooding is a wet dam. I also have spent a lot of time looking at and trying to understand. We have no control of Mother Nature and where rain falls. We can put in 6 dams in the next 10 years. We can put in 29 dams and call our, our entire Papio Valley built out, but we can't control where that rain falls. And when that rain falls on the bottom side of a dam, it's still going to flood. The dam is a huge area that's protecting so many miles around it. But with low-impact development with terraces, with channelization, with levees, we can do a lot of small control and control that in the area. And not spend millions and millions of taxpayer dollars. Not just to build these dams, and we haven't spent any time talking about my tax dollars, my kid's tax dollars on maintaining these dams over the course of the years. Three miles maybe two and a half miles east of me is one of the lakes that was built by the Corps back in the 1970s. It's had major rebuilding done in the \$4.5 million less than 10 years ago and it's drained again because of zebra mussels and other issues that are going on and it'll [INAUDIBLE] again and millions of dollars be spent again. Because of our soils and what's happening. One of the handouts that I gave you today was, was on part of the study that was done back in 2009 that the NRD was, was gracious enough to pay for and has done by HDR, but it shows the comparison of dry dams to wet dams and this is on one particular project that was being studied in 2009 or 2008. You can see it says April of 2008 on the bottom, but they have the same value of flood control at least back then that's what we were told. Today, I know we had mentioned it earlier but it was a shock to me that dry dams just aren't going to work in our area. I find that kind of hard to believe and maybe that's one study just like this was one study that showed its equal value. The other piece that's important on here

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to look at is that it's half the cost. And so if a dry dam is half the cost and has the same flood value maybe that is something to consider. So I'm here today to speak in opposition of LB177, and the continued misuse of our tax dollars as a, as a farmer, landowner, and a taxpayer. It has to stop somewhere and we want to make darn sure we're, we're using our tax dollars wisely. And, and this just does not feel like our research our time spent in our life is not the time to, to just pour dollars into beautiful water reservoirs when it's not its intention to be flood control. Thank you.

HUGHES: Thank you, Mr. Cloudt. Are there questions? Seeing none, thank you for your testimony. Welcome.

TYLER MOHR: Hello. Thank you, Mr.-- or, Senator Hughes, and thank you for the opportunity to speak today. My name is, excuse me, Tyler Mohr, T-y-l-e-r M-o-h-r. My family and myself are farmers and landowners in Douglas and Washington counties. Because of our commitment to stewardship, we have worked with the Papio-Missouri River on-- NRD on a number of conservation products and we have been one of the biggest supporters of the NRD. Early in 2004, it was disclosed that NRD was secretly planning to build a dam on our property. We inquired and we're told by NRD management the main priority of the NRD was to build dams for developers. And if we did not take what they called their development partner's offer, that we would be condemned. I stated that you could not use eminent domain to force property from one person to another. I was told not only that they would do-- condemn us, but that our family and our business would have all kinds of problems from others. Since that time we have seen an enormous amount of public money and resources funneled into reservoir base private development projects. Bonded-- bonding authority has helped fund these projects. Today, we heard the NRD manager, Winkler, state that the landowners are coming to him wanting to sell. That's probably true, but it's only half the truth. Because we have seen excessive amounts paid to certain people primarily developers while neighboring property owners who have no personal or business ties to those in NRD struggle to get far less through the eminent domain process and it'll show you some of the difference in land values on, on the sheets that I handed out. And these are neighboring all within the same project. I think the prices range from the \$9,000 range to the \$45,000 range. I believe it is wrong for someone to use their government position to create wealth for themselves or those they are associated with by forcing that wealth from taxpayers and property owners. That is why we are opposed to LB177. And I heard a few things I'd like to comment today on, maybe

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I should clarify. They talked a little bit about redistricting and it seems to me-- what it seems clear to me that they redistrict quite a while ago in preparation for doing these dam projects. It used to be that the farmers, you know, there'd be several farmers in each county. They redistrict in such a manner that Washington, Burt, Dakota, and Thurston all had one representatives and now they redistrict to bring part of that district down into Omaha so there's a potential that there'd be four counties within the NRD that had absolutely no representation. It'd be a city person would represent them. And, and our ground is all kind of in the same area pretty close almost touches or within a, you know, a half a mile. And when we first went to [INAUDIBLE], I, I called my NRD representative, and the way it's configured, we actually had-- we're in three different NRD districts even though the ground is within, you know, a short distance and I kind of got the same answer from all three that, you're in the other guy's district. I don't have to represent you. I mean, and that's kind of how things go. I think it's-- what's kind of dangerous is probably what another bill should be, The NRD has this massive taxing authority. They have the power of eminent domain. And as far as I know, they're the only government entity or agency in the state that has little or no oversight. And, and, and something I really have to comment on-- I mean, I'm proud to be a Nebraskan and, and I'm proud not, not just because of the opportunity of ownership of land has given our family. But I'm proud because I truly believe there's more honest decent people in this state than anywhere else. And, and I got to tell you if the NRD comes to us and they do as they say-- they, they condemn us and force us from this state, we're not gonna be suing them if they don't come force us from the state you can believe that. So if you have any questions, I'll try to answer them for you.

HUGHES: Thank you, Mr. Mohr. Are there any questions? Senator Bostelman.

BOSTELMAN: Thank you, Senator-- Chairman Hughes. Mr. Mohr, what's your opinion if this bill would not go through and they didn't have the bonding authority? What effect would that have on any of their projects or any future growth of any of the projects that they have?

TYLER MOHR: I, I don't know for sure, but I, I do know that they're really using the money the wrong way. I think it's more geared for developers. I mean, we've, we've seen developers get an enormous amount of money and not just, not just with bonding authority but a number of ways we've seen. I, I mean, I don't think the NRD should be

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in the banking business but they actually loaned a developer a million dollars. And then when the loan come due, and I was in the meeting, I asked the assistant general manager I says, they weren't paying a loan. I says, you know, how come that loan isn't paid? He says, no, that was a gift not a loan. And-- I mean, you know, that don't work for most of us in the business.

BOSTELMAN: OK, thank you.

HUGHES: Additional questions? Seeing none, thank you, Mr. Mohr.

TYLER MOHR: OK, thank you very much for the opportunity.

HUGHES: Welcome.

STEVEN KRUGER: Welcome, Senator Hughes and the members of the NRD district [INAUDIBLE]. My name is Steven Kruger, S-t-e-v-e-n K-r-u-g-e-r. I reside at 14744 County Road 7, Arlington, Nebraska, in Washington County. Currently I served my second term and voted my third term as Washington County supervisor for Washington County. I've also served on the school board locally for 20 years. I live on a family farm that we've had since 1881. Well, I'm well aware of conservation practices-- what I'm handing out here is a, is a memo that the Board of Supervisors voted on asking Washington-- or Douglas County to join us in looking at different means of flood control in the current dams that are being used. As a-- I want to touch a little bit on the school board. I was on a school board for 20 years. We had several bond issues that we've thought consolidation that we needed to do to pass the bond issues. We had seven of them fail. Finally, we went back to the vote of the board and they said, the public did finally approve our last bond issue. So bond issues can pass when you're passing the bond issue that the public approves of. I oppose LB177 because it takes the voter's right away to spend their property taxes. The NRD has the same ability to present a bond to the taxpayers like me as a supervisor. Taxpayers should have the right to vote on how their tax bond dollars are spent since bonds are outside the normal operation expenses. One of the other things I do in the summertime-- wintertime as farmers, you know, we don't have nothing to do. I, I turn in the morning and I listen to you guys debate. My wife says I need to get-- the days need to warm up so I get out of the house and quit listening to you guys debate. But one of the days-- the other day I think it was-- I don't know if it was Senator Albrecht or someone, but Senator Hughes has touched on it-- is about levying authority. I'm the chief financial for the budget of Washington

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County. Now I can make that budget show the public-- I didn't raise your levy this year. So my goal every year is to show them, I didn't raise your tax dollars. And as you can see here with this bonding authority, the one percent that they have, as valuation goes up, their tax asking dollars do go up. They continue to go up and they will continue to go up. They right now currently have enough dollars to finish the projects they have. I'm asking you guys to vote this down and not allow it to come out of committee and give the public the right to vote because I think that's what the general session of this Unicameral is about, is property taxes and giving the rights back to the voters on how our property taxes are spent. I don't mean to put it on your shoulders, but I can't imagine you going home saying, yep, I took away rights today for the property taxes by giving bonding authority without letting them vote on it. Thank you, and if you have any questions, I'd be up to answer them.

HUGHES: Thank you, Mr. Kruger. Any questions? I, I do have one. So do you think that if we would not give the NRD the bonding authority that would stop them from building these dams?

STEVEN KRUGER: Well--

HUGHES: Or will it just slow them down?

STEVEN KRUGER: You know they, they could go take the same avenue I did on the school board. They could come up with a-- propose a bond and sell it. You know, currently with our district the way it is, you know, if you've heard our district outnumbered. I live in Washington County, and we only have one representative for Washington, Burt, and Dakota County, and part of Omaha. So our voters don't really have the vote out there to stop a bond in our district. This is-- the city of Omaha-- they can go out and sell a bond just like I did with the school district. Finally come up to them and say, I don't think it really stops them because if they have the-- bonds are meant to give the people the right to vote to see what's being presented that they have the opportunity that this is a good project. Present a good project. I'm not opposed to total, you know, but let the people vote. That's what we're supposed to be doing in this state. I think that they would have the opportunity to pass the project if the project was-- the people would vote for it.

HUGHES: OK, thank you. Any additional questions? Seeing none, thank you, Mr. Kruger. Welcome.

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JAY ANDERSON: Good afternoon, Chairman and members, thank you for my time. Jay Anderson, County Road 25, Blair, Nebraska, Washington County Board of Supervisors, District 5. I won't take very much of your time. I think--

HUGHES: Mr. Anderson would just spell your name, please.

JAY ANDERSON: Um-- o-n.

HUGHES: All of it.

JAY ANDERSON: Oh. [LAUGHTER] That's [INAUDIBLE] is it "en" or "on"-- J-a-y A-n-d-e-r-s-o-n.

HUGHES: Oh, go ahead.

JAY ANDERSON: I'm sorry about that. I just wanted to add a couple of things. I really did enjoy the presentation about what the Papio NRD is all about and my, my job, I travel the state, and I work across a lot of different NRDs-- work in fiber and broadband development. So I'm in several houses across the state. We have the most unique NRD out of all of them. And for people of Sarpy County and Douglas County it serves their purposes probably pretty well. They have, you know, housing needs they're developing dams and, and their creeks and their valleys that run through their towns or run through their areas of their county. And, and it fits their needs and, and, and I get that. The Papio which I was born and raised probably right at the spring that starts the whole valley, and I currently live about two miles from that at the upper, upper reaches of the valley. We have done over the last 40 years the terraces-- the, the different types of projects that have been done for us to absorb heavy rain. In the-- in that time we've had nine-inch rains, eight-inch rains, five-inch rains, and we have not seen flooding like there was back in the late 60s and that's the same in the Bell Creek Valley and the, and the Missouri River Valley, other than what happened in 2011 that was more about dam management. So the NRD does a very good job of helping with the less intrusive flood prevention and I-- and, and we have a very good NRD Rep. that works in our county and so I don't want to be here today to, to talk down or, or talk bad about their mission when it comes to that. It's, it's just that our county-- three big bond issues that have been passed in the school districts, one out of-- to form the-- a, a big to our law enforcement center and not having a say in more bonding is a, is a very scary proposition. So I, I just kind of wanted to bring to the local level a little bit some of the things that, that

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we're facing and that makes us very concerned. And as you can see our board is diverse with farmers, businessmen, and we all vote-- all of us-- all seven of them signed our names to both of those. So that's how concerned we are. Thank you.

HUGHES: Thank you, Mr. Anderson. Are there questions? Seeing none, thank you for your testimony today.

JAY ANDERSON: Thank you very much.

HUGHES: Additional opponents? Welcome.

MICK MINES: Thank you, Mr. Chairman, members of the committee. My name is Mick, M-i-c-k, Mines, M-i-n-e-s. I'm a registered lobbyist for the Papio, Papio Valley Preservation Association. I'm the last person standing between you and a three-day weekend. I, I understand that. So I, I-- let me just wrap up--

HUGHES: Four-day weekend.

MICK MINES: We get Monday off, too?

HUGHES: We do

MICK MINES: Holy smoke.

BOSTELMAN: OK, sorry.

GEIST: No pressure.

MICK MINES: Let me just kind of summarize-- obviously, the-- our group is passionate. Our group is very well informed. They attend the meetings. They, they question as good taxpayers should question. They understand their land. They understand the valley. They grew up in the valley. And, and they are passionate, they're passionate-- more than association I've ever been affiliated with. Few-- my guess is few of you have seen the Papio Creek-- the Papio district. It's a creek. It's the Pappy Creek. It's not the Missouri River. It's not the Platte River. It's a creek. Now water runoff has, has created flooding years ago. The Papio NRD has done a terrific job in, in-- over that period of time of, of slowing that, that down. And, and it's unfortunate that, that they use not only on their Web site, but on the presentation to you, they talk about loss of life, catastrophe flooding, gloom and doom, and that plays well to the ability to bond and build dams. That's what they do. In, in 19-- in 2017, there were

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2-- 31 people died in reservoirs across Nebraska, 31. None in the Papio NRD district died since the flood of 2000-- of 1964. There has not been loss of life. There was, excuse me, there was one, a canoeist, that got into a high-flowing-- into the creek and died. That was it. So, so to use the, the, the information that it, it really is we're protecting you against all things. Well, maybe we do have 500 years, maybe we don't, but I, I think that it's disingenuous to use that term. Secondly, I think the-- you know what'll happen if you don't-- you both, Senators Hughes and Bostelman, asks a question: What happens if you don't extend this? Well, they're, they're levy won't increase as they've shown, but the, the valuations are going through the roof and their, their budget will continue to increase. And if you-- if they don't get the LB177 advanced, they'll rely on that for a period of time. They'll also rely on the reserve they've build up in their, in their budget as well. And if you pass it and allow, and allow them to bond, again obviously, their, their-- but their, their revenues will increase. They'll be able to bond more and they'll, they'll go back to the voters again and again and again and ask for that second one cent. And that will as, you know, as you saw in this graph that Shawn Melotz passed out, property taxes are going through the roof. In my county-- I live in Washington County, and there's a study put out by a very reputable ag group here in Nebraska-- I can't name them because it's not made public, but property taxes and for on ag land in Washington County have gone-- have increased over the last 10 years by 267 percent. Now you think these folks that own farms aren't upset about that. Housing-- my house increased 24 percent over the last 10 years. And I finally-- I'd like to say I'm going to, I'm going to photocopy-- this is a list of a proposed dam, WPl, and it's surrounded by property owners, right? And I won't go through them, but of the dozen that are listed all but three are, are housing development people. They, they purchase the lands because they knew it was gonna be a dam and if they needed help acquiring land-- I'm not saying this one did-- if they needed help, there is, there is power of condemnation to condemn the rest of the property owners. That's what my, my client is worried about. So I want to really thank you for your patience. Thank you for your time, and I'm glad to answer any questions you might have.

HUGHES: Thank you, Mr. Mines. Are there any questions? Senator Geist.

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GEIST: And I apologize to the committee and those sitting here if this is redundant, but if this bill fails, the NRD still has the option don't they to go to the public and ask for that additional one cent?

MICK MINES: The additional cent? It's--

GEIST: Is that correct?

MICK MINES: I don't know that. I am so sorry, Senator. I don't know that.

GEIST: OK, thank you.

MICK MINES: I'm so sorry.

HUGHES: Any other questions? Seeing none, thank you, Mr. Mines.

MICK MINES: Thank you so much.

HUGHES: Are there additional opponents to LB177? Anyone wishing to testify in the neutral position on LB 177? OK, that will close our hearing on LB177. Thank you everybody for coming. Thank you, committee members. Have a very good long weekend.