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Natural Resources Committee
March 08, 2007

[LB493 LB594 LB704]

The Committee on Natural Resources met at 1:30 p.m. on Thursday, March 8, 2007, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB493, LB594, and LB704. Senators present: LeRoy Louden, Chairperson; Carol Hudkins, Vice Chairperson; Mark Christensen; Annette Dubas; Deb Fischer; Gail Kopplin; and Norm Wallman. Senators absent: Tom Carlson. [LB493]

SENATOR LOUDEN: Good afternoon, we are going to start the hearing now of the Natural Resources Committee. I am Senator LeRoy Louden, Chairman. I'll introduce the senators that are here. To my right is Senator Annette Dubas, from Fullerton; next is Senator Gail Kopplin, from Gretna; and on my left is Senator Deb Fischer, from Valentine; and next to her is Senator Mark Christensen, from Imperial. Pages today are Erin Frank, from Bassett, and Steve Scharf, from Lincoln, and they are both University of Nebraska students. I would ask that you either turn off your cell phones or put them on silent or whatever is necessary so we don't have any disturbance in the hearing room. Those wishing to testify on a bill should come to the front of the room when that bill is to be heard. This year we are using a computerized transcription program and it is very important that you complete a green sign-in sheet prior to testifying, and they are on the tables by the doors in the hearing room. The form needs to be completed by all people wishing to testify including senators introducing bills. If you are testifying on more than one bill, you need to submit a form for each bill. When you come up to testify, place the form in the box by the committee clerk. Do not turn the form in before you actually testify. Please print and it is important to complete the form in its entirety. If our transcribers have questions about your testimony, they use this information to contact you for clarification. If you do not wish to testify but would like your name entered into the official record as being present at the hearing, there is a form you may sign. They are located on the tables by the doors. These forms will become an exhibit for our hearing today and will be part of the official record of the hearing. If you do not choose to testify, you may submit comments in writing and have them read into the official record. Your comments will be an exhibit from our hearing and will become a part of the official record of the hearing. If you want to be listed on the committee statement as a testifier at the hearing, you must complete a green sign-in sheet and actually testify, even if you just state your name and position on the bill. The chair next to the witness table is the on-deck chair. As one person finishes testifying, the person on the on-deck chair should move immediately to the witness table and begin their testimony. As the on-deck chair is vacated, another testifier should move to that chair so we can keep the proceedings moving. As you begin your testimony, state your name and spell it for the record even if it is an easy name. Please keep your testimony concise and try not to repeat what someone else has covered. Because we have many people wanting to testify, it may be necessary to place time limits on testimony. If you have handout material, give it to the pages and they will circulate it to the committee. No displays of support or opposition to a bill, vocal or otherwise, will be tolerated. If you need a drink of

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water during testimony, please ask the page. With that we will begin the hearing on LB493 and Senator Langmiker, Longmiker...Langemeier (laughter)...that was... [LB493]

SENATOR LANGEMEIER: I'll spell it. (Laughter) [LB493]

SENATOR LOUDEN: There's a guy I knew for years by that name. Sorry, Chris. [LB493]

SENATOR LANGEMEIER: I'm getting referred to a lot of people this week. [LB493]

SENATOR LOUDEN: Go ahead. [LB493]

SENATOR LANGEMEIER: My name is Chris Langemeier, it's C-h-r-i-s, Langemeier, L-a-n-g-e-m-e-i-e-r. And thank you, Chairman Louden, and members of the Natural Resources Committee. I bring you LB493. It does one simple thing. The Water Policy Task Force was established a number of years ago to work together to come up with LB962 which currently is on the books and we are all aware of LB962. And in their charter, they were chartered with five particular tasks and the Water Policy Task Force in creating LB962 and a number of other things, has accomplished to some degree, four of the five. And the fifth is banking and leasing of water and I don't know that they're going to go there. My argument in years has been if we have a group, we need to make sure they're useful. If they are not useful, I always say they've run amuck. As we try and create committees in this body, it's well aware of, we need...this body is very talented at making committee, after committee, after committee to look at things. So my goal as the University of Nebraska has put great effort into looking at water resources and dealing with water across the state, I think it's crucial that they take the opportunity to utilize the Water Policy Task Force in their discussion process. This bill in no way mandates that they have to listen to the Water Policy Task Force, nor does it give the Water Policy Task Force any ability to mandate what the University of Nebraska does. But I think this offers a tool for the university to propose ideas to the Water Policy Task Force to talk about. They are a very diverse group representing almost every point across the state. I know Senator Fischer has commented that there's nobody from the Sandhills on the Water Policy Task Force and I apologize for that, I was not the creator of the Water Policy Task Force. But it does have 49 members that have a wide variety of backgrounds from irrigators to recreational to power and whatnot. So what I've added in LB493 is the sixth component and that is the ability for the university and maybe not so much a mandate, but as part of their charter, is that their job is to look at what the university does, be a sounding board for the university, and utilize their talents as well as the University of Nebraska's talents in a very cooperative manner. And so with that I will conclude if there's questions. [LB493]

SENATOR LOUDEN: Any questions for Senator Langemeier? Senator Fischer. [LB493]

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SENATOR LANGEMEIER: All right. [LB493]

SENATOR FISCHER: Thank you, Senator Louden. Thank you, Senator Langemeier, for introducing this bill. You mentioned in your testimony that you and I have had discussions about the makeup of the Water Policy Task Force. Would you be open to possibly having this bill amended to change the makeup of that task force? [LB493]

SENATOR LANGEMEIER: Yes. I think that anything that can make that policy task force better is good. Do I want to see another 20 people added? Probably not. If there's some redesigning that needs to happen to make it more balanced over time with a new charter of things to do, I'm open to any ideas, I'm for that regard. [LB493]

SENATOR FISCHER: Do you think 49 members is a good number, or, in my opinion, it might be too large of a task force. Could you comment on that? [LB493]

SENATOR LANGEMEIER: I would argue that 49 is excessive in my opinion, to have a group to usually get things done; it's typically too big. But however, they have proven themselves to have that ability to get things done. And so with that, I would say in this regard if we were putting this group together today, I would probably advocate for not less than 49 people. But giving their history and their ability, I think they have demonstrated that they can work together and get things done. [LB493]

SENATOR FISCHER: Okay, thank you. [LB493]

SENATOR LOUDEN: Other questions for Senator Langemeier? Senator Christensen. [LB493]

SENATOR CHRISTENSEN: Would the Water Policy Task Force be more beneficial if it was restructured on how they vote and things this direction, or...? [LB493]

SENATOR LANGEMEIER: The Water Policy Task Force, thank you, Senator Christensen, for the question. The Water Policy Task Force has worked on a premise of consensus building. And yes, there may be times in their deliberations and maybe to some of the tougher decisions we have to make on water, that consensus building is not an option. I looked through the statutes and I want to thank the legal counsel to the committee for helping me provide that. I don't see anywhere in their creation that actually the consensus is a mandate or required. And so their ability to convert to however they want to come to either consensus or a straight up and down vote, they have that within their structure. I did look at that; that was a concern. [LB493]

SENATOR CHRISTENSEN: Thank you. [LB493]

SENATOR LANGEMEIER: Thank you. [LB493]

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SENATOR LOUDEN: Other questions for Senator Langemeier? Seeing none, Chris, and do you wish to close? [LB493]

SENATOR LANGEMEIER: I'm going to stick around. [LB493]

SENATOR LOUDEN: Okay. [LB493]

SENATOR LANGEMEIER: I hope this whole crowd isn't here for my bill, but (laughter) I think I know better. [LB493]

SENATOR LOUDEN: We'll give you the option. Can I see a show of hands that wish to testify as proponents for LB493? Okay. Please come forward then. Next proponent? [LB493]

STEVE SMITH: Hello, my name is Steve Smith, S-t-e-v-e S-m-i-t-h. I represent WaterClaim, which is a nonprofit organization representing water and water policy issues. I'd like to testify in favor of Senator Langemeier's bill. I had a couple of points on it. I think it's very good that you have public input from a wide diverse group of people. There are, however, some things on the Water Policy Task Force that I personally would like to see changed. I believe that there needs to be more voices heard. The voices that are there now, in my opinion, are not necessarily representative of all the people they represent. I would also like to see the Water Policy Task Force explore additional subject matter that they currently do not explore now. Right now most of the exploration is, how do we reduce this or reduce that? I would love to see all the brilliant minds in this state come along and say, how can we make better use of the water that we do have available? And there is a lot of very good ideas and a lot of very good people, so. I would encourage you as you take a look at this, to perhaps consider the makeup of the Water Policy Task Force and as I say, there are a number of voices which desperately want to be heard and cannot be. Thank you. [LB493]

SENATOR LOUDEN: Questions for Steve? Senator Christensen. [LB493]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. Steve, when you talk of finding other resources or things, expound upon that. [LB493]

STEVE SMITH: Nebraska is a water rich state. If you listen to the media, you would think we are running out of water. The water is a natural resource that is renewable. If we were to figure out a way to capture just 1 percent of the water that evaporates right now, you would have a totally different perspective on how our society works. Right now approximately 98 percent of the precipitation that falls on Nebraska evaporates. Capture 1 percent of that and most of the water shortages disappear. I don't know how to do that. But if you ask some of the best minds in the state and some of the people who

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care about water policy to think about that for a little bit, that's just one idea of something that would be beneficial, and maybe, somebody's got a brilliant idea. [LB493]

SENATOR LOUDEN: Okay. Any other questions? Thank you, Steve. [LB493]

STEVE SMITH: Thank you. [LB493]

SENATOR LOUDEN: Next proponent? Seeing none, I guess are there any opponents for LB493? Seeing none, anyone wishing to testify in the neutral? [LB493]

JESSICA HARDER: (Exhibits 1, 2, 3) Hello, Senators. My name is Jessica Harder. J-e-s-s-i-c-a H-a-r-d-e-r. I'm here on the behalf of the university. I work for the UNL Water Center and also the Rural Initiative. I'm here to testify in a neutral capacity on LB493. Although the university hadn't taken a position on the bill, I'm here to give you information and explain more about what the Water Resources Advisory Panel is doing at the university. It's a panel that was put together to be an advisory group to the university on water issues in the state. Before I get to that, I'd like to just explain the materials you're receiving. One of them is just a brief bulleted list of water research and outreach at UNL. The second is a two-sided page that shows information about the Water Resources Advisory Panel and what it's been doing. And then the third which is a legal-sized page there, you have a list of ten research proposals that the faculty have created in response to the Water Resources Advisory Panel, and I will get to that in more detail as I proceed here. First I guess I'd like to tell you why the panel was put together. It was put together to provide guidance to the University of Nebraska-Lincoln regarding water resources research, education, and outreach programs. The panel is advisory in nature and its charge is broader than just water research as you just heard. It encompasses education and outreach programs at the university. And it's also brought in a sense that it can tackle water issues other than those related to LB962 or it's also broader in that it doesn't even have to tackle water quantity concerns necessarily. Who is on the panel? It's a ten-member panel of water experts from around the state. You can see who they are on the list that you have, that's the Water Resources Advisory Panel list, has them listed with their affiliations and their term length. And those members were invited to join in February of 2006 and the first meeting of the panel convened about a month later. The first task of the panel was to help the university identify water research needs that were pressing in the state and to also prioritize those needs. What has the panel done then? The panel surveyed state research needs by getting input from a wide variety of sources. Letters went out to request input on state research needs, NRDs, Water Policy Task Force members, NDEQ, HHS, the League of Municipalities, environmental groups, irrigation districts, and Game and Parks. And over 110 letters went out in all and then when the information came back in, I actually broke that down and presented it to the panel in a way that they could understand. I've been serving as the coordinator for all of their activities. I guess I should put that out there, that's why I'm here. I have a very good knowledge of what

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they've been doing. The faculty then responded to the research priorities that the panel set. Over two meetings happened. Based on the first one, 40 water faculty came together with different research backgrounds and in a half-day forum, they wanted to answer three questions that the panel had, and that was: one, has the university faculty members already addressed any of these priorities; two, did the list of priorities need to be refined into better researchable questions; three, does the university have the ability to address these priorities? And then after they initially looked at that, they took the work that they had done at that half-day forum and then they continued to build on that and put together those ten research proposals that are listed in that matrix that you see there. And it actually shows in the matrix, which priorities those address and lists other information that will be helpful to you as well. After those proposals were done, or they were basically just kind of a rough proposal, they went to the panel and the panel looked at those again and gave comments. And then actually the researchers met with the panel members to discuss those proposals and really kind of do a question and answer session where they could each ask each other questions if necessary, to really get a better idea of what they were trying to accomplish with those proposals. Now I guess, we are at the stage where the panel has ranked those proposals. That's where the advice comes in I guess. They have, in their advisory capacity, told the university, out of those proposals, what they feel is most important and those rankings are on that list right there. And now we're evaluating funding needs and potential funding sources for the proposals and hoping to come up with ways to move forward with the top priority ones on that list. So that's what the panel is and what it has accomplished to this point. We're continuing to move forward and I hope this helps you understand what the panel is and what it's accomplished at this point. I'd be glad to take any questions that you have. [LB493]

SENATOR LOUDEN: Questions for Jessica? Senator Dubas. [LB493]

SENATOR DUBAS: Thank you, Senator Louden. Thank you, Jessica, we appreciate the information you have shared with us today. Are you, how familiar are you with the Water Policy Task Force? [LB493]

JESSICA HARDER: I'm actually, I've been attending the meetings so I understand what the task force does and one of our members that actually works at the water center is on the task force, so I understand it pretty well. [LB493]

SENATOR DUBAS: Okay. So do you feel the work that you're doing compliments what the task force is doing? Do you see any duplication there? Do you see there's probably room for working with the task force to find out some things? [LB493]

JESSICA HARDER: We haven't exactly seen how this would come about, exactly what would happen if the task force were to do this kind of thing. You can see that we've done something similar here but it does have a broader sort of purview. So it's hard to

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say what exactly would occur if this was taken into the task force. It's also a much smaller panel than would be the task force. So there are some differences there. [LB493]

SENATOR DUBAS: All right. Thank you. [LB493]

JESSICA HARDER: Sure. [LB493]

SENATOR LOUDEN: Senator Christensen. [LB493]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. Jessica, through this list here, unless I missed it, of what you guys are looking at, I see no real long-term use of Nebraska's water. I realize a lot of these will impact it like water efficiency and different things here. But I guess what I'm getting at, we've had ice jams and flooding going on, yet we got no place we can divert that water to take the pressure off of those when them events occur. Yes, to an extent, we could have been pumping water into Elwood Reservoir through Johnson, things this way, but there's other areas that could be utilized. Are we looking at any long-range use of water? Because right now there's like 2 million acre-feet flowing into the state, eight flows out of the state. We have a rich natural resource flowing out of the state. We are creating it, we're wasting it, it's going to salt water. Are we looking at any long-term solutions to utilize this natural resource to help take care of shortages in the state, to avoid floods, ice jams problems that we've had in other areas we've seen this year? [LB493]

JESSICA HARDER: That I know of, there's nothing specifically addressing ice jams that I know of researchwise going on at the university. There are a lot of other research areas that impact long-term water use and availability in the state that I know of, and we can discuss those whenever you like. Basically that's pretty much what I can say about that. There's no research going on necessarily about ice jams. There's some proposed research going on along rivers dealing with evapotranspiration as you saw in there which would go along with Senator Carlson's bill as far as removing vegetation on rivers which may impact ice jams, but I can't say for sure that there's anything else going on in that area, so. [LB493]

SENATOR CHRISTENSEN: You know, I guess what I was referring to when you got ice jams going on, you got a river flowing, a lot of water coming down, if there's places to divert them off, and if you had them diversions you could always benefit other areas. I'm just wondering if we are looking at utilizing this resource? [LB493]

JESSICA HARDER: Well, there is a lot of research going on and I can look into that specifically for you if you'd like me to, so. [LB493]

SENATOR CHRISTENSEN: Sure. [LB493]

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SENATOR LOUDEN: Other questions for Jessica? Seeing none, thank you. Anyone else wish to testify in the neutral for LB493? Seeing none, do you wish to close Senator Langemeier? [LB493]

SENATOR LANGEMEIER: (Exhibit 4) Of course. I hate to miss an opportunity. First of all, I want to thank Jessica for coming. She's been a real asset to the university and it's my understanding that she will be leaving the university to pursue some other things which is a great loss to the state of Nebraska and water, and I want to go on the record for that. The university has got their rap group of eight and I always argue and I'll argue again, about these groups. If we have them, let's use them; if we don't, let's get rid of them. And to make sure everyone fully thinks about this exploration, I'm going to offer an amendment that if expanding their premise out there and if nobody wants to do that, this amendment would dissolve the Water Policy Task Force. And I think we need to look at fully utilizing them or looking at other avenues out there. I think there's a possibility that if this group does not exist into the future because they're not needed, that they could always be recreated and brought back. So that is my closing and I thank you for your time and your thoughtful consideration to expanding. My preference is the first, is to expand their scope and I think they have a unique group and I think they have a lot to offer the university in their discussion and with that I conclude, thanks. [LB493]

SENATOR LOUDEN: Okay, any questions for Senator Langemeier? Seeing none, thank you, and with that we will close the hearing on LB493. Thank you, Senator. [LB493]

SENATOR LANGEMEIER: Thank you, Senator Louden. [LB493]

SENATOR LOUDEN: Next we'll open the hearing on LB704. Senator Preister. Is Senator Preister here? How many people wish to testify on LB704 while we are waiting for Senator Preister to get here? Twelve? Okay, and how many opponents wish to testify on LB704? Two? Okay. Anyone wishing to testify in the neutral? That will be two? Okay then, thank you. Then I guess we'll hear Senator Preister now. As soon as he gets in the saddle, why we'll whip up. Good afternoon, Senator Preister, we're ready for you to open on LB704. [LB704]

SENATOR PREISTER: Thank you, Senator Louden, Chairman of the Natural Resources Committee, and members. My name is Don Preister, P-r-e-i-s-t-e-r and had I known I was going to saddle up I would have brought my horse, Senator, (laughter) but be that as it may, I am the primary introducer of LB704. Under the provisions of the bill, the federal Clean Water Act states, are obligated to regularly test, identify, and implement measures to improve polluted water. States accomplish this by preparing a list of impaired surface waters. These are waters that do not support their assigned beneficial uses which are defined as: primary contact recreation, which includes aquatic

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life; cold water A, cold water B, warm water A, and warm water B; then also water supply which includes public drinking water, agriculture, and industrial. From this list, states are to prepare total maximum daily allowances or TMDLs, that set safe standards for pollutant levels in water and include the pollution control goals and strategies necessary to improve the quality of these waters and remove the identified impairments. Every major river basin in Nebraska has pollution problems. Of those that have been tested, 158 are classified as polluted and only 11 have had TMDLs implemented, and that's according to the DEQ's 2004 water quality report. There are 1,723 bodies of water in Nebraska that have not yet been tested. At the current rate, it will take over 300 years for the TMDL program to be completed and for Nebraska's water bodies to be cleaned. LB704 creates the Fishable and Swimmable Waters Act to ensure that Nebraska's water bodies meet state water quality standards and federal clean water standards to protect our public health. Under LB704, the Department of Environmental Quality, NDEQ, is required to put in place, a plan which includes a specific time line and estimated funding needs to ensure that: one, DEQ completes by 2011, TMDL allocations on every water body that failed to meet Nebraska surface water quality standards as of January 1, 2007, under existing state and federal standards; two, it would require DEQ complete by 2017, assessments of every water body to determine whether or not each water body meets or fails to meet, applicable state and federal surface water quality standards; three, NDEQ would complete by 2019, TMDL allocations on every water body determined after January 1, 2007, as not meeting state or federal surface water quality standards; and fourth, DEQ implements each TMDL assessment plan within three years of the water body assessment, but in no case later than 2022. Highest priority shall be given to streams that supply water for public water systems. DEQ must ensure that the measures recommended for implementation in the allocation of TMDLs are of sufficient quantity, quality, and duration to bring the water body into compliance in a reasonable amount of time, in no event later than 2027. LB704 creates the Surface Water Quality Cash Fund to carry out the requirements under this act including carrying out surface water quality assessments, undertaking TMDL allocations, and providing incentive programs to landowners and others to help achieve meeting state and federal surface water quality standards. Five million dollars is appropriated in FY2007 and 2008 and \$10 million in FY'08 and '09 from the General Fund. By September 1, 2007, the Governor must appoint a 14-member Surface Water Quality Task Force to, one, review the plan adopted by DEQ; two, review the estimated funding needed to achieve the responsibilities under the act; three, review the potential available sources of funds that could provide long-term support for surface water quality; and four, report by January 1, 2009, to the Governor and the Legislature, on its findings and recommendations. Water is one of Nebraska's most precious natural resources. Nebraskans deserve to know that the state's waters are being monitored and cleaned up to safe standards for all kinds of beneficial uses which include not only our public water supplies, agriculture and industrial uses, but also includes fishing and recreational use in and on the water. There were some letters that came in that I don't believe were read into the record yet. There was one from Chad Smith, from American

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Rivers, in support; one from John Wolcott; Ted Kessler of Lincoln; Geoff Bakewell, from Omaha; Ben Siebler, from Fremont; Robert O'Dell, from Grand Island; Justin Jones, from Lincoln; Troy Kash-Brown, from Lincoln; Paul Hosford, from Albion; Joanna Pope, Martell; Deborah Hunsberger, Omaha; and Pam Daley. I think the other ones you probably have and have read into the record, or will. With that, Senator, I'd be happy to entertain any questions. [LB704]

SENATOR LOUDEN: Questions for Senator Preister? I...understand this right, you are asking for \$5 million the first year, then \$10 million after that to fund this, is that right, Senator? [LB704]

SENATOR PREISTER: That's the request in the bill, yes, Senator. Water testing is very expensive. This is essentially doing the assessment; this doesn't get the point of cleanup or what it would entail. It would be compiling the plan, doing the assessment, and putting things together that those funds would be for. [LB704]

SENATOR LOUDEN: Okay. And did I understand you right, you said there was 1,723 water bodies in Nebraska that haven't been checked yet? [LB704]

SENATOR PREISTER: Correct. [LB704]

SENATOR LOUDEN: Correct. Now... [LB704]

SENATOR PREISTER: We have the federal requirement but because of the cost, because NDEQ is short-staffed and isn't able to get to it, we have really not done very much in terms of the testing. [LB704]

SENATOR LOUDEN: When you say water bodies, what are you talking about? I mean, what kind of lakes, and how many, and which ones, and where? [LB704]

SENATOR PREISTER: You might ask that of NDEQ because they have a standard that they go by. It's not an entire river necessarily, but segments of rivers and it's certain sizes of water bodies. But rather than me try to give you a description of what NDEQ counts as those water bodies, it might be better if... [LB704]

SENATOR LOUDEN: Okay. But what I mean are you talking then about running water or stationary lakes, or both? [LB704]

SENATOR PREISTER: It's both. It's rivers and streams and stationary bodies. Well, I don't think there is such a thing as a stationary body, but I think we both mean like a lake that's contained. All water moves... [LB704]

SENATOR LOUDEN: Well, I was going to say I think there's over 1,700 lakes in the

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south end of Sheridan County and (laughter) I'm wondering if this is what you had in mind, checking those lakes too, or major lakes of over 600 acres or what? Because... [LB704]

SENATOR PREISTER: I'm going by the federal requirements and what NDEQ is listing. So as you see that, I would have to have them probably identify and clarify what their requirements are under the Clean Water Act and where those bodies would fit in. I'd like to see all of them done personally. [LB704]

SENATOR LOUDEN: Well, I agree, somewhere along the line if it's necessary, but what I'm kind of... guess my question is, are we starting into something here...are we trying to shovel away a mountain here with a grain shovel when it's impossible to do? I guess I just have...my concern is what we call lakes and which ones need to be tested. I agree there are some of these major ones that where people do recreation should be monitored. The alkali lakes in there where I live around north of Lakeside and places like that that eat up your barbed wire fence and your tin cans, I don't know if it's worth testing or not, I guess. This is kind of where I'm coming from. [LB704]

SENATOR PREISTER: Sure. [LB704]

SENATOR LOUDEN: Any other questions for Senator Preister? Seeing none, do you wish to close then Senator? [LB704]

SENATOR PREISTER: Senator, I have to get back to the Revenue Committee so I will waive closing. [LB704]

SENATOR LOUDEN: Okay. Thank you. [LB704]

SENATOR PREISTER: Thank you. [LB704]

SENATOR LOUDEN: (Exhibits 5-17) First proponent for LB704? At the present time I will read these letters of support. Teresa McArtor, from North Platte; M.J. Albrecht, from Waverly; Sandra Riley, Columbus; Carol Schooley, from Grand Island; William Warr, from Omaha; Neil Harrison, from Norfolk; Linda Deeds, Platte Valley Sierra Club, North Platte; Sue Shigley, Peru; Ted Thieman, from Petersburg; Lawrence Bradley, Omaha; Lynda Buoy, Bassett; John Kunzman, Albion; and Margaret Gilmore, of Omaha. Go ahead. [LB704]

DUANE HOVORKA: Good afternoon, Mr. Chairman... [LB704]

SENATOR LOUDEN: Now just a second. Before you start, are you just a witness or are you Senator Preister's expert witness on any of this? If he had a special witness, I'll give you a little bit more time, otherwise we'll give you about three minutes. [LB704]

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DUANE HOVORKA: Okay. I'm, I don't know that I am an expert, but I am going to try to explain what some of the people who follow me are going to talk about, if that helps?
[LB704]

SENATOR LOUDEN: Okay we'll give you five minutes then, we'll give you a little more.
[LB704]

DUANE HOVORKA: Thanks. Senators, thanks for being here. My name is Duane Hovorka, H-o-v-o-r-k-a. I'm here to testify as a volunteer on behalf of the Nebraska Wildlife Federation. You may not realize it because it's not advertised, but every major river in Nebraska is polluted. No major river system in our state meets the state water quality standards. You don't hear much about it because it's not advertised, but that's the truth. And it comes right out of the Department of Environmental Quality's reports. To answer one of the questions you asked Senator Preister, according to DEQ, there are 1,556 stream segments in the state, and that includes basically all the different segments and tributaries. And they're broken up basically where the stream breaks off; and 520 lakes and reservoirs and those are primarily just the publicly accessible, the public lakes and reservoirs. So they don't include all the farm ponds and all that kind of stuff. But that's what counts when DEQ is going out and doing water monitoring and that's what comes under their environmental quality standards that are required to be met. Those standards come in part--35 years ago Congress passed the Clean Water Act and the promise at the time was that we were going to have fishable and swimmable waters and I think the first deadline was about 15 or 20 years, but Steve Virgil is going to talk about Nebraska's obligations under the Clean Water Act here soon. But the problem is that the original deadlines in that act are long since passed and we still have water quality problems in Nebraska. The Clean Water Act at the federal level was then passed to the states to implement and Wes Sheets was around and helped write some of those water quality standards, at least he was around when those were written, and he's going to talk a little bit about those standards and about the lack of progress that we've made since that time in implementing those standards and in making sure that we make our rivers fishable and swimmable again. As you'd expect in a state where 95 percent of the land is in agriculture, is in farming or ranching, a lot of our problems are agricultural-based. They're E. coli and bacteria, nutrients, that sort of thing, that come off of farming operations, but that's certainly not the only problem. Jim Knopik is going to talk a little bit about livestock waste and some of the problems that he, as a rural resident, sees out in his community. But Pam Daly is also going to talk about urban problems, about the problems of runoff from construction sites, about the problems of runoff from all the pesticides and herbicides that urban residents use and how that finds its way into the storm sewers and into our streams and lakes. Kara Harbert is going to talk about recreation. One of the bases for these standards is to keep people safe. So when you are out fishing in a trout stream or you are canoeing the Niobrara or you are swimming in a lake, the standards are designed to protect body

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contact. So they are designed to protect you when you're in that lake or stream from getting sick because of something that's in that stream. Some of the standards also go to water quality in terms of aquatic habitat so they're designed to protect the fishery habitat, the wildlife that use those surface water bodies. To give you an example and I'll just pick on one watershed, not because it's unusual but because it's typical of Nebraska's watersheds, and that's the Elkhorn is the one I picked, if you look at 135 stream segments plus 30 lakes and reservoirs in that watershed, that's about 155 water bodies in that watershed. Of those, we know because we've tested them, that about 17 are impaired. That means they fail to meet the state water quality standards. We know that eight of them do meet most of the water quality standards. The ones they don't meet are things like agricultural supply because they haven't really assessed whether or not they meet them. But at least in terms of aquatic habitat, eight of them meet those standards. That leaves 130 bodies of water in that one watershed that we don't know about, that we haven't tested. So of the ones we've tested, by two to one, those are impaired. And you would assume if the main stem of the Elkhorn is impaired, has things in it like, the list would include fecal coliform, nutrients, pH, mercury, ammonia, PCBs and selenium, those are the things in different parts of the Elkhorn Basin depending on what part of the water you're in. But if you look at those and the main stem is polluted, you've got to assume that at least some of those tributaries are polluted. So that's the struggle, that's the problem that we've got. And what we're dealing with in a large part is the time line, that if you look at all of the stuff that we've got out there, just the ones we've looked at, we are well over a 100 bodies of water that need these TMDLs, these watershed cleanup plans. We've only completed, I think probably, a dozen or so of them over the last few years. And so that's where Senator Preister's comment that it could be centuries before we get watershed cleanup plans on all of these rivers and lakes in Nebraska, and that's the problem. What's the solution? Well, it's political will and it's money. Because a lot of what we're doing is strangling the Department of Environmental Quality with almost no state money in order to do the monitoring, to write the cleanup plans. We've got one person sitting over at DEQ that's in charge of writing all these watershed cleanup plans all across the state and that's part of the problem. So the solution, as we said, is money. And let me just contrast this because I'm pretty sure I'm about out of time, with the groundwater situation. If you look back for decades, we've been hearing about groundwater problems in Nebraska. And our natural resources districts and the state stepped up and said, this is a problem, we need to take care of it. And the solution was focus and money. And so we went out, we tested wells, we put some money behind putting in place best management practices, and to their credit, what we've seen is substantial improvement in the water quality in many of those wells across our state. And so I think that is clearly a sign that we can do better. The problem with surface water is that focus isn't there in part because of the public understanding of the problems we have isn't there, and because the money's not there. And that's why the bill provides for \$5 million to jump-start it this coming fiscal year and another \$10 million the next year. And then it calls to take a clear look at what we need to do over the coming years in order to make Nebraska's rivers and streams fishable and

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swimmable again. I'll stop there and see if you've got any questions? [LB704]

SENATOR LOUDEN: Okay. Questions for Duane? Senator Christensen. [LB704]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. Duane, what are the regulations like on this? What is allowable, what's not, levelwise, maybe compared to drinking water, to give me a better analysis, what is meeting the standard and what is not? [LB704]

DUANE HOVORKA: There are a number of standards and they're designed to implement a number of, for instance a stream that is used as a drinking water source by a community would have a higher standard to meet than a stream which is say, only considered, basically habitat, aquatic habitat? A stream like the Niobrara that you'd expect people to be swimming and canoeing in, and we have, I think, about 96 of those water bodies across the state that are designated for human contact, those have a higher standard for some pollutants like E. coli and bacteria that can make people sick, so the standards vary depending on the designated use of the stream. [LB704]

SENATOR CHRISTENSEN: Okay, I guess where I'm getting at, are we in a position that we can't comply from the standpoint you take a stream that runs over a saline area, it's going to pick up salt, and we can't move the steam, we can't take it out of there. Are we...I just...that's why I wondered, where's the standard and are we going to throw good money after bad, is this something that's actually achievable? I guess I'm just trying to get a feel for the situation because I know if water runs across a saline spot, it's going to pick up salt. So if it runs across something...other mineral, it's going to pick that up and these river beds naturally have rocks and minerals and things in there. That's why I was wondering, where's the levels at? Are we in a no way to comply? Is this a reasonable standard and we just have overages? I'm just trying to put together some thoughts. [LB704]

DUANE HOVORKA: Senator, I think the standards are reasonable and I think the regulatory process takes into account those kinds of naturally occurring elements. We have alkali lakes out at western Nebraska. Officially, they probably don't meet the pH standard but at least for those water bodies, DEQ recognizes that and says this is not a pollutant, this is a naturally occurring situation. And so we're not going to try to clean up alkali lakes and make them less alkali because they are naturally that way. So when that happens, the standards don't require that we go in and do anything. In terms of meeting the standards, the good news is we don't have rivers--I don't know if you, I'm old enough to remember back, the Ohio River, you could throw a match on it and it would burst into flames--I mean, that's why the Clean Water Act was passed in 1972. But most of our lakes and rivers aren't that bad. Most of them are failing to meet some standard or another, but the kinds of things we can do, putting in buffer strips with federal funding, that sort of thing, would go a long ways toward helping us meet those

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standards and a lot of those are voluntary programs that we don't make very good use of in this state, in part because we don't make a focus of it. We don't knock on doors, we don't go door-to-door in the watershed and say, here's the problem, here's a solution, you can get a check for putting in this buffer strip so will you work with us? [LB704]

SENATOR CHRISTENSEN: I guess that was a lot of my intent here was, you know, if it's a nutrient runoff or a chemical runoff, buffer strips and things are good and can control a lot of this, but as you go down through a river as long as the Republican is or Niobrara, or a number of these, are going to go across different minerals in different areas which they could pick up concentrations and I just wondered, is that going to throw us out of compliance because we can't go and clean all the waters if it's picking it up along the stream or if it's chemical things that way. Then I understand, that's addressable, but I'm just trying to get a feel for what the bill would do and where are regulations set. [LB704]

DUANE HOVORKA: Sure. And for the most part the standards that we're failing to meet are things like too many nutrients, E. coli, bacteria, not necessarily from ag operations, sometimes it's from municipal wastewater treatment systems that are not up to snuff. [LB704]

SENATOR CHRISTENSEN: What do we do with situations like I...Kearney has all kinds of cranes come in every year. They poop everywhere (laughter). Some of them waters are foul. How do we handle that situation? I don't want to spend dollars trying to clean up something that's automatically doing to be recontaminated shortly. If it's runoff from a feedlot, it's one thing. If it's wildlife coming through you got the same exact situation...what do we do with that? Because these cranes, they're nuts. (Laughter) [LB704]

DUANE HOVORKA: Sure. And that's...and I think we have to be reasonable and the watershed cleanup plans have that kind of flexibility, and in fact, ideally what DEQ does when they go into a stream like the Middle Platte and they say, well, we've got bacteria, is... they would do enough testing to say, is it coming in March, it is April, is it May, is it June? And if it's March and you can actually trace some of this bacteria back to the species where it came from and if our only problem is in March because of the cranes, then I think that's something that you take into account and you say, well, we don't really write a plan to get rid of the cranes. But for the most part, that's not the situation. The situation is that we're getting the stuff that gets flushed in May and June when you get the spring rains and that sort of thing. [LB704]

SENATOR CHRISTENSEN: So am I assuming right, if you got a running I can see it flushes, but if you got these pools along the Interstate and stuff that the cranes land in, they build the levels of nitrates up and feces up; how do you change that? [LB704]

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DUANE HOVORKA: Well, you know, what you would do is with that particular pond or lake, you'd have to figure out what are the sources there? And if the source is a natural source, like ducks and cranes, then for the most part, the watershed cleanup plan would either say, either we are just going to accept this because it's natural and we're not going to try to change that, or we are going to find some way to scare all these birds away everyday or something. And that would seem to not be the logical response. I think we have to use a lot of common sense. [LB704]

SENATOR CHRISTENSEN: Thank you. [LB704]

SENATOR LOUDEN: Any other questions for Duane? Seeing none, thank you. [LB704]

DUANE HOVORKA: Thanks. [LB704]

SENATOR LOUDEN: Next proponent? [LB704]

STEVEN VIRGIL: (Exhibit 18) Good afternoon, Steven Virgil, S-t-e-v-e-n V-i-r-g-i-l, Omaha, Nebraska and I intend to stick to the three-minute time allocation, Mr. Chairman. [LB704]

SENATOR LOUDEN: Okay, thank you. [LB704]

STEVEN VIRGIL: I'm here today as a volunteer appearing on behalf of the Great Plains Environmental Law Center. The Great Plains Environmental Law Center is a nonprofit, community-based advocacy organization in Omaha, Nebraska that works with citizens and nonprofit environmental groups on environmental quality issues. I am testifying on behalf of the law center in support of LB704, because we think it's a very necessary and very timely bill that addresses some significant issues in the Nebraska about water quality. I'd like to recognize Senator Preister for his leadership in introducing this bill. I think that the question of water quality in Nebraska has been an issue that's been frankly not heard in the discussion over the last couple of years about water quantity and water issues in this state. LB704 addresses some very serious issues in Nebraska's effort to protect water quality in our state. It's our opinion, it's my opinion that Nebraska is not doing an adequate job to assess its surface water quality or to take action to improve it. A senator mentioned the 300-year time frame that would be required to assess water quality and establish the TMDLs for the water segments in our state; that's a significant period of time. I don't imagine that my great-great-great-grandchildren would experience fishable, swimmable water in our state by the time that testing is done. The obligations that we're talking about and which this bill address are real obligations under the Clean Water Act. These are not discretionary. They are obligations that the state has, having accepted the responsibility to implement the testing and remediation elements of the Clean Water Act. The Clean Water Act was

passed in 1972 with the obligation of making all waters in the country fishable and swimmable. The states over time, fairly soon after that, assumed that responsibility for the TMDL programs to see that at the state level, that goal was accomplished. Section 303 of the act simply requires mandates that states assess their water quality, determine the use of their water segments, and then when it's necessary, set TMDLs to make sure the water will at a minimum, not deteriorate in water quality, but with the goal ultimately of improving water quality. There's really no discretion here; states have to do this. If states do not comply with the obligations under the Clean Water Act, the EPA can take those responsibilities away. And in many states, citizens have successfully brought lawsuits to challenge a state's TMDL program and to see that the TMDL program is effective. And again, those obligations, the ability to assess where water quality is, and to improve water quality, begins with testing. The area of law that is involved is incredibly complicated. It's probably one of the most complicated areas of law that there are. But the underlying obligation is not that states simply have to comply with Section 303 of the Clean Water Act, and DEQ, their representatives can answer any questions, I'm sure, that you'd have about that. In our opinion, LB704 moves the state of Nebraska further along in compliance with its obligations under the Clean Water Act. It provides for testing, it provides for the setting of limits that will protect water quality and enhance water quality throughout the state. And it provides a timeline and a plan to see that the state's waters are improved within a reasonable amount of time, not within the 300-400 years that we are on pace for. There were numerous questions about whether or not the goals that would be set would be something that's achievable. The act and the way the process works is it takes into account background pollutants or background inputs, and monitors and regulates human inputs. I think that as a civilization with the technology we have, with the education we have, and with the political power that we can bring to an issue, these goals are more than achievable. They simply must be accomplished. The act doesn't, again, give the state discretion in this and it provides a mandate to the states to move forward with protecting surface water. We support LB704 because it does provide needed resources to see that the state complies with its obligations under the Clean Water Act, protects Nebraska's surface water, and fulfills the obligation to obtain fishable and swimmable water in our state. I ask that the committee advance this bill, that it be given a hearing and consideration that's consistent with the broad public support. You've received numbers of letters in addition to the many people who are here today in support of this bill, so we ask that you advance this bill and we testify in support of it. Thank you. [LB704]

SENATOR LOUDEN: Any questions for Steve? Senator Christensen. [LB704]

SENATOR CHRISTENSEN: Thank you, Chairman Loudon. Steve, in your testimony here, it talks about state must meet these requirements or EPA will. What kind of time frame do we have, what kind of penalty things are we looking at? [LB704]

STEVEN VIRGIL: The original time frame has passed. In 1972 when the Clean Water

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Act was enacted in its current form, I believe it as a five-year or ten-year time frame that states were to obtain...assess their water quality and set TMDLs. There was a comprehensive planning process in the Clean Water Act that requires a timely orderly march towards assessing the water quality across the state and implementing plans to improve it or protect it. I am not aware of a hard and set deadline of a date, but there must be some reasonable motion towards accomplishing it. Now there was an issue about ten years ago in Georgia where the state of Georgia had implemented their TMDL plan and they were on schedule to fulfill their obligations of water testing in the state on a 250- or 300-year time frame. And in that case, the court that considered it said that wasn't acceptable, that that was not fulfilling the obligations under the act, that 250- to 300-year time frame. So while I am not aware of a hard and set deadline. There has to be a plan that will accomplish the goal of the act. And there's a fairly strong argument I think that a plan that requires a 300 years to implement, isn't accomplishing the goal of the act. [LB704]

SENATOR LOUDEN: Other questions for Steve? I have a question, I guess. First of all, you are talking about fifteen million bucks in two years. Where do you want us to get that money from? Do we take part of the money that we're spending on roads in Omaha, deduct it out of there? Where do we get this fifteen million bucks to do this? [LB704]

STEVEN VIRGIL: Well, Senator, I think that's a political question. I think if it were my decision, I don't know, maybe the roads in Omaha, I can't say. But I think it becomes a question of priorities. And if the state is going to put surface water quality for our generation, the next generation and our grandkids as a priority, the money has to be there. It's not a discretionary expense, in my opinion, it's a mandatory expense. It is an obligation that the state has under the Clean Water Act. [LB704]

SENATOR LOUDEN: Now, my next question is, what kind of a line are we looking at because the country where I live, I mean, I'm the third generation in there and I got two more generations under there, and my dad and them, you know, you could swim in those lakes years ago and then them little bitty red bugs would get on you and stay there. And as you go farther east towards into the Sandhills where the water is a little fresher, those bloodsuckers will get on you. That was our swimmable lakes to me. (Laugh) Is this is what...are you expecting...when you have this line that you want to have fishable and swimmable, what are you talking about? Because, I mean, we had the buffalo running through them things for years and years and years and everything else. [LB704]

STEVEN VIRGIL: Right. [LB704]

SENATOR LOUDEN: So, what kind of a...what are we going to try to set for us to go to? [LB704]

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STEVEN VIRGIL: Well, there are folks here who know much more about the science, the technology of this than I do, so I'll cede that point. But the idea is that different water bodies have different uses and you are not going to drink from a water body that primarily serves as irrigation. So you should not have to... [LB704]

SENATOR LOUDEN: There's where you're wrong; have you ever been to Chadron? [LB704]

STEVEN VIRGIL: I have. [LB704]

SENATOR LOUDEN: Have you drove in from the south and saw that lake out there south of Chadron? [LB704]

STEVEN VIRGIL: I'm going to see it next week. [LB704]

SENATOR LOUDEN: It's all green and everything? Did you order a glass of water when you got to Chadron because that's where it came from? [LB704]

STEVEN VIRGIL: (Laugh) You know, to be honest with you, when I'm in rural Nebraska I tend not to drink the public water. (Laughter) I... [LB704]

SENATOR LOUDEN: Well, it don't kill those people, so it must be drinkable. [LB704]

STEVEN VIRGIL: No it doesn't. But I think, I've been to, I can't count the number of courthouses that I've been to where they have nitrate warnings above the public drinking fountain. The goal is, what is the use, what is the proper cleanup standard. I used to live in Cleveland and I have walked along the bank of the Cayuga River and 25 years ago that river did, in fact, catch on fire when somebody flicked a cigarette into it. And that was the impetus for changing the Clean Water Act and seeking to improve our waters. I've canoed on the Cayuga River. It is a much better, much safer living body of water now after 30 years. We can obtain amazing improvements in our surface water. We can leave a legacy for the next generation where they don't have to worry about smoke in their river, and they can think about enjoying it and swimming, fishing, whatever it might be. And that's a political decision, it's not a technological decision. It's simply a matter of setting policy and sticking with it. [LB704]

SENATOR LOUDEN: Okay. Thank you. This will go with the smoking ban (laughter), we're not going to smoke along the rivers anymore so I guess we won't have to worry about catching fire. Thank you for your testimony. [LB704]

STEVEN VIRGIL: Thank you, Senator. [LB704]

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WES SHEETS: (Exhibit 19) Good afternoon, Chairman Loudon, and members of the Natural Resources Committee. My name is Wes Sheets, that's spelled W-e-s S-h-e-e-t-s. I appear before you today representing the Nebraska Division of the Izaak Walton League of America. As you know, that's a statewide conservation group that's been in existence for 80-some years. We are very interested in LB704 because we think it improves upon existing state policy in regard to the future of our natural resources, our natural waters qualities across the state. We believe that fishable and swimmable waters was established as a goal back in the early '70s when the Clean Water Act was passed, and when our Nebraska act for clean water was passed thanks to Senator Loran Schmit, I was a working fisheries biologist at the time, working in natural resources in our department. I accepted the opportunity to work as a liaison for the Game and Parks Commission with that department and then the Department of Environmental Control, to establish the first water quality standards for our state. And mind you, when we were done after the first two or three years, they were not nearly as extensive as we see today. So the water quality standards have increased in comparability and because of technology, we've been required to improve upon those standards. Since that time and perhaps I'm getting a bit long in the tooth and gray in the temples, but after 35 years it was my hope back when I was working with the first water quality standards, that we would be considerably further along in some of our water segments, particularly those in eastern Nebraska. And I don't think a whole lot has probably changed around Ellsworth, Nebraska, Senator. I suspect that those alkaline lakes are probably still about as alkaline as they were 35 years ago. That's the natural background that we want to accept, I mean, that's going to be a given. But it has been my personal observation that while we've made significant improvements in point source discharges and that was a goal early on in 1970, you could go across our state and find some pretty vile pipes sticking in the bank of a river that was discharging any amount of unknown things. Those have largely been identified, technology has taken a great step in improving the conditions as a result of those point sources. But I think we are looking at are community watersheds in the state of Nebraska now. And I guess that's my point of view, that whether or not TMDLs are the right technology and should be extensively pursued, I think that they are a tool and we would certainly do well to focus on communities, community watersheds and their relationships. And it probably is to a large extent, an educational process with those citizens that live in those watersheds. I think if everyone had improving understanding on the condition of their waters, they would probably want to, and would do more, take on more activities to reduce the objectionable contaminants and existing pollution. There are some really good examples of what I'm talking about. There's a little stream up in northeast Nebraska called Powder Creek and that community is, with the Department of Environmental Quality's assistance and work, have actually cleaned up that stream. The community in most cases, almost all of the folks that live in that watershed now have an improved attitude about how they treat that water resource and have improved the quality of the water that runs out of it a great deal. The recommendation for a Water Quality Task Force, I really don't know how you would establish that, but I think given

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the results of our existing state Water Policy Task Force and the benefits that that has guided the state along to improve our situation with quantities of water resource, I would foresee that a Water Quality Task Force might have similar really good benefits. And so given that, I think that's probably the strongest recommendation of LB704. I guess I'll quit there and hope you stay on timeline and just urge the committee to think favorably about LB704 and support its goals and objectives. Whether this is the right legislation or not, I think it's a great start and we should begin to look to the future short of 300 years. And with that, thank you for the opportunity, Senators, for expressing these opinions. [LB704]

SENATOR LOUDEN: Questions for Wes? I have a question Wes, because you'd be probably as familiar as anybody. Should...how many of these lakes should be tested? I mean, should we just be testing something where the public uses, that are public access, or public recreation or something like that? And do the streams now...does the DEQ test these streams now? [LB704]

WES SHEETS: Well, DEQ certainly has a statewide network and you'll learn more about that if you ask them I guess; a number of standardized sampling stations across the whole state. They do standardized sampling on a number of our public bayous, recreational bodies. I think as Mr. Havorka indicated, there needs to be a lot of common sense in our approach to this and certainly the lakes on your ranch out near Ellsworth probably would demand a huge amount of continual monitoring or testing. You know, I can recall a very explicit survey of water quality done by the Game and Parks Commission prior to DEQ, prior to the 1970s, by D.B. McCarraher here. He was an aquatic biologist, worked for the department. He spent months and months and months, I guess, actually, years categorizing the Sandhill lakes and identifying those of high alkalinity and (inaudible), etcetera, etcetera, etcetera, all the various chemicals, so I think there's certainly a lot of common sense that needs to be used. And certainly, I think, as we've done in the past, with water quality issues, you look for the worst examples, the things that are deteriorated the most and you being to work on those first and foremost. And I would presume that we would continue to do that and work our way down from the worse cases as they get better, that would be my approach anyway. So to answer your specific question specifically, there are lakes that probably certainly have not been tested and identified contaminant loads, etcetera. [LB704]

SENATOR LOUDEN: Okay. Thank you. Other questions for Wes? Seeing none, thank you, Wes. [LB704]

WES SHEETS: Thank you. [LB704]

SENATOR LOUDEN: Next testifier? [LB704]

JIM KNOPIK: (Exhibit 20) Senator Louden, and members of the Natural Resources

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Committee, my name is Jim Knopik. J-i-m K-n-o-p-i-k. I come today to testify in support of LB704 and as an eyewitness of polluting activities that are happening in the rural agricultural communities of our state. Pollution is happening to our surface and groundwater almost on a daily basis. Just in the last few years I have witnessed many things that are very hard to believe. Two years ago while driving our cows from one stock field to another, I had to run into a cornfield where hog waste from a deep-pitted sow barn was pumped, not to apply valuable fertilizer, but simply to empty this pit as the most convenient and economical cost of doing business. I stepped into the slurry that was over six inches deep and probably covered four to six acres. I've seen manure from a large cattle operation running in a ditch toward the Loup River more than once and not always accidentally. I've seen manure from a pivot running through ditches and live streams several miles to Timber Creek. I have seen manure applications that can't possibly be at agronomic rates. I saw along county roads where livestock trucks have opened their traps and spewed manure along the way as they drive away. I have seen sows and pigs lying uncovered in drainage ditches. I have seen liquefaction of dead pigs in a concrete pit. I have seen tanker trucks hauling paunch manure from Monfort in Grand Island, parked by a small pond dumping their load directly into it 6,000 gallons at a time. I've seen those same trucks on a hilltop allowing that manure to run down to, and under a public road, into our neighbor's pond that he had just stocked with fish. I've seen manure burning for months from a large cattle operation that had pushed manure down over the top of cedar trees in a canyon. It was said to have started from spontaneous combustion. About a month ago, while driving down Highway 91 east of Albion, I saw a tractor pulling a honey wagon applying what looked like animal waste. I could tell he didn't want anyone to see as he pumped with open discharge on highly erodible land. The disturbing thing to me was that this was during a very warm thawing day following the ice storm. All, and I mean all of the moisture that day from the ice and snow and the slurry was going into ditches at a very high rate downstream. I've had several calls from people who have witnessed animal waste running through their property and for some reason are afraid to call proper authorities. It is not hard in the summer or fall to run across pivots or volume guns spewing liquid waste from animal waste lagoons. Many will say they are fertilizers and watering crops but neighboring farmers with common sense will tell you differently. A new technology of injecting liquid manure in the soil on cropland in my opinion, is the biggest and most dangerous source of pollution from CAFOs I have ever witnessed. In an attempt to satisfy odor problems, a policy sold to regulators, this is a major source of contamination to ground and surface water even without average rainfall events. I can't believe an agency is more concerned and particular about septic systems and their location than injecting more animal waste in a minute than an average household does in a year. I know many rural people who have had to spend thousands of dollars on water purifiers and filter systems to be able to use their own well water. Contaminated water is becoming a major health problem that costs everyone. Why should anyone have to cleanse the water they need before they use it? Shouldn't it be properly cleansed as soon as those who have used it are done with it? I think it is a shame that the water is not safe and free to any living thing

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that needs it. Something is very wrong that it doesn't cost those who pollute it. In a so-called attempt to save the family farms, big business lobbyists have convinced policy makers to water down regulations and enforcement so bad that we are in the biggest free-for-all polluting society in history. The policing power by citizens in rural communities has almost disappeared along with nearly all of the farmers because there is a cost of polluting our air and water resources. Over 90 percent of farmers and citizens and the watchful eyes of our state have been driven from farms and rural communities. We can blame many things for this loss, but one thing that has allowed that to happen more than anything is the lack of protecting our natural resources--land, air, and water. Head-in-the-sand decisions allowing the pollution of our environment have concentrated animals... [LB704]

SENATOR LOUDEN: Okay, can you wrap it up in about a minute or something like that? [LB704]

JIM KNOPIK: Yes. ...concentrating people, and concentrating farms, concentrating money and wealth while destroying society. The state agency we have today protecting our air and water is not doing their job like many people thought it was meant to do. In all cases, it appears they pass out permits to pollute to packers, factories, and CAFOs like candy at Halloween--these permits, while allowing the biggest polluters to police themselves. I have lost all confidence in our DEQ of ever becoming an environmental protection agency the way they are. The executive director is politically appointed and the overwhelming majority of the Environmental Quality Council is representing the biggest polluters in the state. I believe a stronger environmental agency is one of the only options that we have left to cleanse water and air. If that is the case, I know that they need money and tools to work with. But most of all, they need all of us to make a personal decision to watch over their shoulders and their backs. Thank you very much for listening to me. [LB704]

SENATOR LOUDEN: Okay. Questions for Jim? Go ahead, Senator Hudkins. I might mention at this time that Senator Hudkins as vice chairman of the Committee, has joined the committee. [LB704]

SENATOR HUDKINS: Mr. Knopik I have actually, a series of questions if you don't mind. I was following along in your typed comments and thank you for that, it's very complete. You said that you saw manure go here, you saw manure through a pivot, you've seen manure applications that can't be agronomic rates, sows and pigs lying in a drainage ditch, concrete pit, Monfort's. Did you ever call law enforcement on any of those? [LB704]

JIM KNOPIK: Oh, you bet. [LB704]

SENATOR HUDKINS: What happened? [LB704]

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JIM KNOPIK: Not enough as far as I'm concerned. In one of those instances I was talking about that went to Timber Creek, law enforcement was called and he called DEQ. They came out a couple of days later and did end up pressing charges. It's a long story that it seemed to me like they were trying to protect the producers more than the people that were actually being affected. [LB704]

SENATOR HUDKINS: And I think that possibly, if you talk to the producers, they are going to tell you a different story that DEQ is very strict and they have neighborhood watchdogs such as yourself watching over them and making sure that things are done correctly. Do you know why your neighbors are afraid to call the proper authorities? [LB704]

JIM KNOPIK: No, not always. But a lot of times there's, you know, they have to go out in public and they're, you know, can be humiliated or, you know, people with power, have ways to control people. [LB704]

SENATOR HUDKINS: How should the waste from CAFOs be taken care of? What should happen to it? It goes into a pit or lagoon. Eventually that's got to go somewhere else. [LB704]

JIM KNOPIK: Well, there's only one way that I know of that it could probably be safely done and that is using solid waste, not using water to clean out the facilities. They just eliminate labor that way to get their job done. [LB704]

SENATOR HUDKINS: You talked about slurry and people using it as a fertilizer. How deep should that be infiltrated? [LB704]

JIM KNOPIK: Well, I...they tried to inject it into the ground and I think that's probably a mistake. They inject it into the ground to deal with the odor problems. [LB704]

SENATOR HUDKINS: How deep does that go into the ground, a couple of feet? [LB704]

JIM KNOPIK: I would say probably... [LB704]

SENATOR HUDKINS: About 18 inches? [LB704]

JIM KNOPIK: ...oh, around 12 inches. [LB704]

SENATOR HUDKINS: Okay, 12 inches, right. [LB704]

JIM KNOPIK: Yeah. [LB704]

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SENATOR HUDKINS: And you said you know many rural people who have had to spend dollars on water purifiers. How many is many? [LB704]

JIM KNOPIK: Oh, geez, you just go up and down the street anymore and find everybody that's got a water purifier in their house. On the farm...especially southeast of Fullerton, every farmer probably has one. My son and daughter-in-law live over there and their cost for theirs was \$3,000. [LB704]

SENATOR HUDKINS: And I think my last question is that you said that over 90 percent of the farmers and citizens have been driven from the farms. Now do you...well, you said, we can blame many things for this loss, but you also said it's the lack of protecting our natural resources. I think I would disagree with you in that case. Yes, of course, we need to protect our land, air, and water, but I think the reason why 90 percent of the farmers are leaving the farm is that they can no longer make any money. [LB704]

JIM KNOPIK: That's exactly true. And the reason for that is by diluting the regulations or the power to restrict people from polluting the water has caused more concentration of animals. And what you have, the less farmers you have in a community, the easier it is to control them. So by eliminating the farmers when it comes...what I was trying to get to in that statement is, the packers only have less to deal, to negotiate with and so that negotiation is just continually eliminating the farmers through market power and concentration of the livestock marketing system. [LB704]

SENATOR HUDKINS: We should go back to every farm has 50 cows and 200 head of hogs and this would all go away? [LB704]

JIM KNOPIK: I think it needs to be less than that. [LB704]

SENATOR HUDKINS: Oh, okay. Thank you. [LB704]

JIM KNOPIK: Um-hum. [LB704]

SENATOR LOUDEN: Other questions for Jim? Seeing none, thank you for testifying. Next testifier please? [LB704]

LAURA KREBSBACH: (Exhibit 21) Good afternoon, my name is Laura Krebsbach, L-a-u-r-a K-r-e-b-s-b-a-c-h, and I am here as a citizen today. I wanted to talk about aquatic impacts, but something I want to touch on before I get to things that happen to aquatic life and the impacts from runoff, is that since we have the Clean Water Act, one of the things that it did when the creation was, looked at two types of sources of pollution and the first one is the pipe, the source, the source point that we can follow back and we know XYZ company ran this pipe, it came out into the water, and we can

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make them clean up their act. And that's an easier thing to do and we've done a really good job of it in this country, of getting to the source point. The other type of pollution that the Clean Water Act looked at was TMDLs, and that's the total maximum daily load limits that are allowed into water bodies, and that's really hard to determine because it comes from everywhere. It comes from our city streets, rather our cars leak oil and then it rains, or we've got the salt that gets spread on the street and then it rains and that runs in. All of that then collects and concentrates in our waterways. And that is what we're looking at today is we are looking at these nonsource points that come from everywhere but all have impacts in different ways on our watersheds and our surface waters. Sometimes if you don't have that background and that's something that we all do as people that work on water issues a lot, we don't always make that really clear to folks. What I wanted to talk about is aquatic impacts and what I have for you today is a little synopsis of a study that was done on the front page and then an article about that on the back page. That was done on the Upper Elkhorn and it is a study on flathead minnows and their exposure to feedlot effluent and what resulted in that, and I think that there's a lot of feedlots in that area so that was chosen to see what's happening when that effluent gets into that waterway. Because I think that we can look at fish and their relationship in water, what it tells us by their effects to them as being similar to a canary in a coal mine. If there's air problems and the canary drops dead, man better get the heck out next, so I think we can look at fish that way. And what they found in this study is that in that effluent that there were endocrine disrupting actions, mostly hormones that were coming out in the fecal matter. And in the effluent, or feedlot effluent, they call it FLE, they observed significant alterations in their reproductive biology. Male fish were demasculinized and having lower testicular testosterone synthesis, I'm not a scientist so bear with me, and the females also had decreased estrogen, so we are seeing that there is an impact through those things that get into the waterway. And I'm not saying it's just feedlots or it's just confined animal feeding operations, we have problems in the cities. As we have sprawl, we have more pavement, we have less areas that are able to filtrate the contaminants that we as human beings create. So it's very important that we identify them and we get a plan that is actually going to look at improving the water quality. And it's not a choice, this is a mandate from the federal government and we are way behind and we need to play catchup and I do have children in Nebraska and some day, if I keep nagging them, I'm going to have grandchildren and I want those kids to have clean water. So I think it's really important that we pass this bill and make it a priority. [LB704]

SENATOR LOUDEN: Any questions for Laura? Senator Hudkins. [LB704]

SENATOR HUDKINS: Laura, thank you for being here today. And one of the main things that I would suggest that you tell your children when they have grandchildren is don't have them vaccinated with mercury-causing vaccines. [LB704]

LAURA KREBSBACH: I've seen a lot about that lately. Well, if I ever get the opportunity.

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They're dragging their feet, I'm very annoyed with that. [LB704]

SENATOR LOUDEN: Any other questions for Laura? Seeing none, thank you for testifying. [LB704]

LAURA KREBSBACH: Thank you very much. [LB704]

SENATOR LOUDEN: Next testifier please? [LB704]

PAMELA DALY: (Exhibit 22) Good afternoon, Chairman Louden, and members of the Natural Resources Committee. My name is Pamela Daly. P-a-m-e-l-a D-a-l-y. About 60 citizens in Washington County who are part of a grass roots group there called Save our Hills, have asked me to come and I too am a citizen there, to speak to you and urge you to pass LB704. As a 30-year resident of rural Washington County, I have watched in dismay as stream after stream in the Missouri River tributaries basin are being degraded by sediment and pollution from poorly designed stormwater systems and septic systems in subdivisions that are taking out our farmland. There has been a lot of talk of pollution from agriculture. This is changing more and more in counties where rapid growth is taking place like our county. It's the proliferation of conventional subdivisions that are damaging our waters right now. I'm sure most of the conventional as opposed to conservation subdivisions, most of the developers of conventional subdivisions would oppose this bill. Because right now it is very easy for them to institute stormwater systems that are cheap and do not do the job. Children playing in the streams and lakes in our area are getting sick from the bacteria, not from agricultural runoff, but from subdivision sediment and pollution. Dogs have died. These streams used to be a natural amenity that attracted people to our county for recreation and even to live. Now people are avoiding them. The NDEQ is obviously unable to keep up with all the problems. I've had many conversations with them over the past year asking for help. They are caring, sympathetic, and very hardworking people who have responded as well as they can, but they have nowhere near enough people to respond to the concerns of streams and rivers in this state. TMDLs have not been set in most of our streams. Also, they, along with other environmental agencies, tell me they are not allowed to testify in our county hearings to let us know, let the developers know, let the county officials know, that some of the problems with the drainage plans that these developers are putting in. Why is that? Why are the experts in our state unable to take a role that will meaningfully help our streams and rivers? Finally, like anything, money is going to be necessary to enable the NDEQ to do its job. I think you have to look at it from this business perspective. Our waters bring in a huge amount of business, far more revenue for recreation, housing developments and industry than the amount of money needed to keep these waters an attraction for those revenue sources. Please pass this bill so we can clean up our beautiful waters and retain this great resource, and improve this great resource in our state. Thank you. [LB704]

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SENATOR LOUDEN: Any questions for Pam? Seeing none, thank you for testifying. [LB704]

PAMELA DALY: Thank you. [LB704]

SENATOR LOUDEN: Next testifier please? [LB704]

KARA HARBERT: Good afternoon, Senator Louden, and members of the Natural Resources Committee. My name is Kara Harbert, K-a-r-a H-a-r-b-e-r-t. Today I'm here as a concerned Nebraskan and a recreational user of Nebraska's water, to urge you to support LB704. You've heard a little bit about the pollutants we talked about, construction runoff, industrial wastes, pesticides and herbicides, manure, this not only impacts the quality of our waters, it impacts people like me and people like you, who are recreational users of these waters, and without discrimination. It impacts kids, it affects adults, kayakers, fishers, people who walk with their dogs and their dogs run in the water, tourists who come to visit Nebraska. Missouri is another state like Nebraska who has faced water quality issues in the past and at one point they were forced to clean up their waters and today, because of that, they are able to market their water resources to attract tourists to Missouri. It's not only improved the water quality for their own citizens, it has improved the water quality as something they can market to others and bring economic resources. I'm discouraged learning what I've learned today and previously having learned about this bill about water quality in Nebraska, what the quality is and the speed at which Nebraska is taking action. And from what I understand, this isn't a new concern. I recently...I don't know a lot about it but I learned a little bit about LB1234 which is an act of a few years ago and from what I understand as a result of this act, it was encouraged that we look and take action on monitoring surface and groundwaters of Nebraska. And I'm just curious with that having been discussed, why we're here again with LB704. As a fisher personally, I want to be able to fish in Nebraska and not have to worry about eating my catch. As a kayaker, I love to kayak and not have to worry about if I get water in my mouth or on my face when I'm out there. As a Nebraskan, I just want to know that my waters are clean and that I can enjoy them and that others can enjoy them. And it seems like LB704 is a reasonable way for us to accomplish this and I urge you to support LB704. [LB704]

SENATOR LOUDEN: Questions for Kara? Senator Hudkins. [LB704]

SENATOR HUDKINS: Thank you, Kara, I appreciate your comments. You said you are a fisher woman, person, angler, whatever, do you have boat or do you just fish from the shore? [LB704]

KARA HARBERT: I'm a fly fisher, yeah. [LB704]

SENATOR HUDKINS: A fly fisher, okay. I know you don't have access to this, but the

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fiscal note for this bill says that for FY2007-2008, there could be cash funds appropriated or necessary for at least \$179,000. Where would you propose...well, actually, it's more than that, it's \$5 million and then in FY2008-2009, it's \$10 million. I like clean air and clean water too. But where do we get the money? The \$5 million and the \$10 million? [LB704]

KARA HARBERT: As was mentioned before, I think that for me, air quality and water quality is a priority, and it depends on what we decide is a priority. And if people want water quality to be a priority, that's, I think, where our funds should be appropriated from. [LB704]

SENATOR HUDKINS: All right. Where do we take the money from? Who gets not as much money to support this program? And I'm not saying I'm not in support of the program, but I'm just saying, who then, has to get less money so that this program can be done? [LB704]

KARA HARBERT: I don't think that there's necessarily one program from which we should take this money but I think it's a matter of deciding which are priorities, laying those out, and appropriating those priorities the money first. Whoever is left out, might be left out. That happens all the time. [LB704]

SENATOR HUDKINS: Thank you. [LB704]

SENATOR LOUDEN: Other questions for Kara? Seeing none, thank you, Kara. And at this time I'll mention that Senator Wallman has joined the committee as one of the committee members. Next testifier please? [LB704]

CLARE WATSON: Good afternoon, Senator Louden, and the Natural Resources Committee, my name is Clare Watson, C-l-a-r-e W-a-t-s-o-n. I'm here as a concerned citizen to show my support for LB704. I respectfully request your consideration for this bill for the sake of the integrity of Nebraska, it's inhabitants, including the people and wildlife, and the future generations that will inherit this state. Nebraska is under the obligation of the Clean Water Act to set water quality standards and uphold these standards. Nebraska cannot honestly claim compliance under the Clean Water Act when 1,723 bodies of water in the state have not yet been tested. LB704 proposes a reasonable timeline and plan to complete existing TMDLs, test all untested waters of the state to set TMDLs, and bring newly assessed water bodies up to standard. The bill also proposes a financing plan that the Department of Environmental Quality will need to carry out these important tasks. At the rate of the current TMDL program, it could take hundreds of years to clean all of our waters, but with the implementation of LB704, Nebraska can have clean water within 20 years. The state can then be relieved that its responsibility is upheld to the community and future generations that need clean water to live the good life in Nebraska. Thank you. [LB704]

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SENATOR LOUDEN: Any questions for Clare? Seeing none, thank you for testifying. Next testifier? [LB704]

KEN WINSTON: Good afternoon, Senator Louden, members of the Natural Resources Committee. My name is Ken Winston, last name is spelled W-i-n-s-t-o-n. I'm appearing on behalf of the Nebraska Chapter of the Sierra Club and I'm just going to make a brief statement that the Nebraska Chapter of the Sierra Club supports LB704. And the reasons for that as has been previously stated, we have an obligation to protect our surface water and LB704 provides a mechanism and the resources to do that, and we would ask that LB704 be advanced. Thank you. [LB704]

SENATOR LOUDEN: Questions for Ken? Thank you, Ken. [LB704]

KEN WINSTON: I get off easy. [LB704]

SENATOR LOUDEN: Next testifier? [LB704]

STEVE LARRICK: (Exhibit 23) Good afternoon, Chairman Louden, and members of the Natural Resources Committee. My name is Steve Larrick from Lincoln, Nebraska and I'm an elected representative on the Lower Platte South Natural Resources District but I am not here representing them, I'm representing the Nebraska Green Party and we want to represent the citizens of our district and the state and the world (laugh) on environmental issues. In the natural resources district, every four years we survey our residents to see what their interests are in terms of natural resources and we have a scientific survey done by a professional surveyor, the Sigma Group did it in 2003... [LB704]

SENATOR LOUDEN: Steve, could you spell your name for the... [LB704]

STEVEN LARRICK: Oh, I'm sorry, it's L-a-r-r-i-c-k. And every four years, like I say, in 1999 and 2003 we...you have before you survey results and the question that was asked to the citizens of this district is, I'm going to read you a list of concerns about natural resources or the environment. Please rate the importance of the following on a 1 to 10 scale, with 10 being extremely important and 1 being not at all important. Well, as you see in the information before you, in the 1999 survey, the top three issues were pollution of groundwater, number one; number two, the decline in groundwater supply; and number three, the pollution of lakes and rivers. And it kind of drops off after that, but the concern that was expressed in 1999 was exceeded in 2003. Now we've been through four more years of drought and more concentrations of contaminants in our water system. There's likely to be when we survey again here in the upcoming months in 2007, an increased concern in these key areas among the citizens. And so I think it's very important that we support LB704 to really begin to do a little bit more to protect the

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water resources in our state and the environmental quality in our state. Yeah, there's an old saying that you never miss your water until your well runs dry and there's also a great book that I encourage everyone to read, Topsoil and Civilization. And they talk about the history of the planet and the interrelationships between topsoil and water. And it's a very, very important study because we are consuming water faster than any other civilization in history. And we have here in Nebraska the largest fresh water aquifer in the world and we need to do a better job of protecting it. But then also our rivers and streams, if we can prevent pollution and keep it a clean state where people will want to live and bring their families here to live and enjoy the beauty of our state. I hope we can get the support for this bill to help protect our natural resources. Any questions? [LB704]

SENATOR LOUDEN: Any questions for Steve? Seeing none, thank you for testifying, Steve. [LB704]

STEVE LARRICK: Thank you. [LB704]

SENATOR LOUDEN: Next testifier? Any more testifiers as proponents? Then we'll take testimony as opponents at this time. Any opponents for LB704, if those will come forwards to these chairs please, we will get started on that. [LB704]

BRUCE KEVIL: My name is Bruce Kevil, K-e-v-i-l. I represent the Nebraska State Homebuilders Association. I'm here to testify in opposition to the bill. My principal point will be that events, things change in our industry which is concerned with the sediment and this particular situation deals with impairment, waters that are impaired by sediment maybe caused by construction. The regulatory scheme changes and I'm here to tell you that if you adopt a law while the environment itself and the regulatory schemes are changing, there's some risk that it'll be not necessary. There is some risk it maybe still necessary some years down the line. But I just want to relate to you that what's happening in the construction industry. Basically, a couple of things. About four years ago, the EPA started a concentrated enforcement activity all across the United States on construction activities as it concerns the Clean Water Act. It got a lot of people's attention. About three or four years ago you'd have a seminar on erosion control, best management practices, you'd be lucky if you got five contractors. Omaha held such a seminar just about three weeks ago. There was in excess of 200. We've gotten the message. Now, the other thing that is occurring is the Phase II of the Clean Water Act is going into effect. Granted, Nebraska is one of the last states that it's going into and we might be tardy in that area, but nevertheless it's going into effect. And for the NPDES permits and in the construction industry, what that effect will be is going to be dramatic. Under Phase I, I'm going to kind of oversimplify things to make a point, in a subdivision only the perimeter was surrounded with erosion control or best management practices to keep the soil that's disturbed from flowing off the site. Under Phase II, NDEQ will be looking to regulate actually the interior perimeter, the interior of the subdivision. The regulations are pretty close to being finalized but that is conceived that we will actually

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be going down to the individual lot level now and putting best management practices to keep that soil from even leaving the individual home lots. The other thing that is happening is new players are coming into the regulatory game. Under the MS4 requirements for permits that cities have to get, EPA mandates are requiring the cities to address construction. Omaha is a lot farther along. If you looked at North Platte, they're only beginning. They're looking at ways how they can draft this ordinance to regulate the construction runoff. So my point is, these are new things people are taking very seriously and I think you're going to have to, I would suggest that you would wait a couple of years and see how they take hold. If they do take hold, do they make a difference? And I'm going to submit to you that I think that they will a difference. Under the MS4 situation, we have a traditional scheme of building codes, the homes being inspected, and checkers. Well, some MS4s have a similar regulatory scheme and I'm not going to say they all do because they got to develop that. But the point is more and more local governments have been put in charge with that responsibility. So I question that right now the implementation of TMDLs for sediment control in the state of Nebraska is the best thing and would ask and request that perhaps you might defer for a couple of years and let's see how this runs its course. That concludes my testimony. [LB704]

SENATOR LOUDEN: Questions for Bruce? Thank you, Bruce, for testifying. [LB704]

BRUCE KEVIL: Thank you. [LB704]

DUANE GANGWISH: Good afternoon, Senator Louden, members of the committee, my name is Duane Gangwish, D-u-a-n-e G-a-n-g-w-i-s-h. I'm here to testify on behalf of the Nebraska Cattlemen in opposition to this bill although I recognize that opposing such a bill is a bit like talking trash about mom, apple pie, and baseball. Having said that, we...obviously, Nebraska Cattlemen have an adamant, or adamant proposals of viable and robust natural resources in the state because we depend upon them. We depend upon them for our water, we depend upon them for our crops. Our opposition to the bill is fundamentally in two areas. One, is just the fiduciary responsibility of a \$15 million budget item when just a week ago we were here until the wee hours of the night talking about the cost of trying to comply with various compact agreements on a couple of river basins. Another item might be that we look at the word, every stream segment, as it's moved throughout the bill and I think, Senator Louden, you addressed this in some of the remote areas be they lakes, the alkali lakes that may not be included, I'm not an expert on that area. However, there are many intermittent streams throughout the western part of the state that only carry water in specific times and those might be of concern when we use the word, every. Probably a more concern that we have in our ranching community is the, I don't know how to quantify the number of miles of stream bank that might be present throughout the 23 million acres of the Sandhills of Nebraska, and what impact that might be if we have to curtail livestock availability to those streams. I know other states have had some of this conversation, Oregon for example,

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there is a proposal at least, to fence out all streams from grazing areas. They've not carried through on that, but I'm not sure what the cost might be in addition to that. There's been some allusion to livestock throughout testimony here. I think if you look back through the Livestock Waste Management Act in the last couple of years, there's been significant improvement in the capture and containment of runoff from open facilities and that has in certain watersheds, improved water quality. Maybe not to the magnitude that it would be desired by some, but there has been significant improvement and I think there will continue to be as those EPA rules and state DEQ rules come into play in more and more facilities. So we look to be a part of the solution of this ongoing challenge, here willing and able every day to be a part of maintaining our natural resources, but we would ask you to not advance this bill. [LB704]

SENATOR LOUDEN: Any questions for Duane? Seeing none, thank you, Duane. [LB704]

DUANE GANGWISH: Thank you. [LB704]

SENATOR LOUDEN: Next opponent? Any more opponents? Anyone wishing to testify in the neutral position? [LB704]

MIKE LINDER: Good afternoon, Senator Louden, members of the committee, my name is Mike Linder, M-i-k-e L-i-n-d-e-r. I'm the director of the Nebraska Department of Environmental Quality. I'm here today testifying in a neutral capacity on LB704. It is great to be here and to be able to talk about this issue. I appreciate Senator Preister introducing this bill so we can have this discussion because this is the kind of thing our department tries to generate interest on. It's often hard to engage citizens and groups on some very technical provisions but they are very important nevertheless. One of the things I'd point out is we do annually publish a groundwater quality monitoring report and every other year, a surface water quality monitoring report. And somebody mentioned LB1234 of a few years ago. This annual groundwater report is a direct result of that bill as are a number of other things that we do. I just want to touch on a few things. I know the afternoon is getting late and you still have another big bill, but I wanted to let you know that we have identified and assigned beneficial uses to all of the state's 1,565 stream segments and all of the 552 lakes and reservoirs. Water quality standards have been developed to adequately protect these beneficial uses. These standards are reviewed and modified as necessary every three years or less, as required by the federal Clean Water Act. All of the proposed changes and rationale for changes are approved by EPA, put out for public notice and comment, and adopted by the Environmental Quality Council, so it's a very open process on how we update and modify our water quality standards. And I'm pleased to say that Nebraska is the only state in our region that's actually kept up on the three-year rotation. It's a tremendous amount of work but we've been able to do that every three years since the Clean Water Act passed. I know we're the only state that's kept up in our region, some states are a

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number of years behind, as much 12 years behind. And we do constantly look at ways to maximize our resources that are given to us by the Legislature to accomplish the mission that you've partly heard described here today. In the water programs, we developed our current water quality monitoring strategy in 1994 where we decided to go to a monitoring program that looks at surface water quality through a combination of fixed ambient stations that are at the same locations year in and year out. And also a rotating river basin approach where we spend a year at a particular river basin to do intensive monitoring and then rotate throughout the state through five different areas. And we think that's provided us really good information on a concentrated basis in those basins so we can make decisions on things like TMDLs that you've heard described here today. I think it's important to note that a TMDL is not a cleanup plan as has been described. A TMDL is an evaluation of the watershed area, evaluation to determine what the pollutant load of that stream or stream segment or lake can withstand and during that process, when we identify problems, we have the authority under the Clean Water Act and the state Environmental Protection Act to deal with what are called point sources which you've heard described, whether it be a livestock operation that meets the definition, or a municipal wastewater treatment plant, or industrial wastewater treatment plant. For nonpoint source pollution, we have no authority. The Clean Water Act doesn't have authority over nonpoint source and neither does the state. So we approach that in more of an educational and voluntary process. To date, DEQ has developed and EPA Region 7 has approved, a total of 57 TMDLs and we currently have 27 TMDLs in process and should be submitted to EPA shortly. There are 331 TMDLs that need to be developed yet and each year DEQ negotiates the number of TMDLs to be completed during the year with EPA Region 7. And I believe our current target that we negotiate with EPA is to do 19 TMDLs per year. So it's much shorter than with our identified impaired water bodies now, it's much shorter than a 300-year time period until we have TMDLs prepared for our impaired water bodies. DEQ spends currently about \$1.7 million per year for water quality monitoring efforts and development of TMDLs. State General Funds provide 24 percent roughly, or about \$400,000 annually, and federal funds provide the remaining 76 percent, or \$1.3 million. I think it's important to put in context Nebraska's situation versus the national situation. Nationally there are 40,000 water bodies identified as being impaired as compared to our 150. And there is a number of reasons why there's such a disparity in numbers. But USEPA's goal and it's current strategic plan is of those 40,000 water bodies, that within the next five years, they would attain beneficial use of 2,250 of those 40,000 TMDLs by the year 2012; that's their five-year strategic plan. So you can see it's not an easy process, it takes time and so I think Nebraska's actually in very good shape on our TMDL program. I mentioned TMDLs are not implementation plans, they are reports. They identify potential point sources which we do have authority over, they identify other impacts on the water body that we can maybe do things voluntarily. There was a question on how long do we have to do a TMDL after a water body is listed? We have 13 years to do a TMDL after a water body is listed. There was also reference to the only way to really be effective beyond a TMDL-type process is to work locally with a particular area on a

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water quality situation. We have done that, we've had tremendous success and I have a number of reports if you are interested, but examples would be the Valentine Mill Pond which was actually on the impaired water bodies list and after rehabilitation, we were able to remove that from the list. The Holmes Lake project was a result of a local watershed effort. There are many, many of those examples, not the whole state obviously, but we try to identify priority watersheds and work in those, so. With that, I'll be happy to answer any questions if you have them. [LB704]

SENATOR LOUDEN: Any questions for Mike? [LB704]

SENATOR WALLMAN: Yes, Senator Louden. [LB704]

SENATOR LOUDEN: Senator Wallman. [LB704]

SENATOR WALLMAN: Thank you, Senator. Yeah, Mike, I noticed the last couple of summers we've had endangered lakes--you are not supposed to swim or wade or anything in there. Is that caused by chemicals from the farmers or? I'm a farmer. [LB704]

MIKE LINDER: Well, you're referring to the toxic algae situation that we've had and really it's a naturally occurring situation to have that algal bloom and the die-off which sometimes has a toxic effect. We saw a lot of that probably three years ago now when we actually had a couple of pets die in one of the Platte River lakes by Plattsmouth. And so that caused...and we think it was probably a lot of that had to do with the drought, with lower levels in those lakes and the concentration of maybe some fertilizer if it's a developed lake--a lot of those were developed lakes. So since then we've had an annual sampling program. We've tried to identify the lakes that we need to test every year and when we identify a problem, put out a notice of that. But really, it's a naturally occurring phenomenon. And Nebraska now is looked at as a national leader in how do you identify, how do you set health alerts for toxic algae. It's something we'll keep on, I think we are routinely testing 40-some lakes now in the summer time, so. [LB704]

SENATOR WALLMAN: I was just wondering, my brother lives in northern Minnesota and you can't have septic tanks up there. Just lift stations or pumps, you know? [LB704]

MIKE LINDER: That can be part of it and we've done a number of lake projects to rectify that. [LB704]

SENATOR WALLMAN: Yeah, that's what I was wondering. Thank you, Mike. [LB704]

MIKE LINDER: Thank you, Senator. [LB704]

SENATOR LOUDEN: Are there other questions for Mike? Senator Christensen. [LB704]

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SENATOR CHRISTENSEN: Thank you, Chairman Loudon. Mike, when you made your statement, only state to keep up with three-year rotation, that was on what now? [LB704]

MIKE LINDER: Well, water quality standards. You've heard a lot about those today and actually, just as a visual, this is Nebraska's water quality standards. This is a state regulation. It identifies all of those stream segments that we've talked about and all of those lakes and identifies for each of them, a beneficial use. And it also has numerical and narrative criteria for what those water bodies need to meet. And there's a requirement in the federal Clean Water Act that every three years we go through and update this. They're to reflect new pollutants, the new pollutants levels, or to add or remove stream segments. But the idea back in 1972 when the Clean Water Act passed is there needs to be a regular update of these standards. And in Region 7 which is Kansas, Nebraska, Iowa, and Missouri, I was saying that Nebraska is the only state that's managed to keep up with that three-year rotation. The other states, at least I know one of our neighboring states is I think, 12 years behind on their standards. So my point being, not to degrade what those states are doing, but to say that we really are keeping up with our obligation under the Clean Water Act. [LB704]

SENATOR CHRISTENSEN: Of the 331 TMDLs you haven't set up yet, have they been tested and just not a plan set or are we still trying to do the initial tests? [LB704]

MIKE LINDER: In order to be listed on an impaired water body list, we have a published protocol on how much sampling we do in a stream segment and what degree of confidence we have that if we identify an impaired stream, we really feel it is impaired. And so all of those 331 TMDLs that need to be prepared, which by the way, could be for fewer than 331 water bodies because you could have more than one pollutant at a particular water body. But we have a great deal of information on those water bodies. And I just have to get this out, as I mentioned, 40,000 impaired water bodies across the United States, each state was left to decide how to create its initial impaired water body list several years ago and Nebraska took a very conservative approach and the approach I just described of having a high level of confidence that we actually have an impairment. Our list is very, very sound scientifically. Other states took a much more open approach. I had one state director said, tell me that what they did was they had a number of public meetings around the state and they put out recipe cards and they said if anybody feels you have an impaired water body in your area, write down that stream and we'll put it on the list. So that's the range of, and you know, they regret having done that, because once it's impaired you have a lengthy process to get them unimpaired. So I feel very confident with our listing process and the amount of scientific information we have on those impaired water bodies. [LB704]

SENATOR CHRISTENSEN: Thank you. [LB704]

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SENATOR LOUDEN: Other questions? Senator Dubas. [LB704]

SENATOR DUBAS: Thank you, Senator Louden. Thank you, Mr. Linder, for being here. This piece of legislation is talking about a specific timeline to get things done. Where do you see yourself falling in this timeline now? I mean, you're talking about you're already regularly... [LB704]

MIKE LINDER: Well, I think one of the, I believe one of the underlying beliefs in the legislation is that if a TMDL is adopted and put into place, that there is a cleanup plan. That somehow we have the ability to have additional authority on things like nonpoint source pollution, which we clearly don't. So the TMDL process isn't a beginning and an end. We have, I mentioned 300 and some TMDLs to prepare yet. If we do 20 a year, you could do the math on how many that would be, but it's an iterate process. We'll have new streams come on, and new streams lake come on, we'll have some come off, so it's hard to put a timeline on it. I think we'll keep making progress the best we can. We try to prioritize those stream segments and lakes we think we need to deal with first. But some of the impaired water bodies, for example, are the Missouri River for bacteria. Well, we probably never will have the Missouri River come into compliance with bacteria because there are natural causes. There are all sorts of impacts that are well beyond Nebraska's control. So it's a difficult question to answer to say how long is it going to take. I think we have to rely on the system we have and make sure we keep up with doing a good, high-quality TMDL and try to move forward on them. [LB704]

SENATOR DUBAS: I think there seems to be a certain amount of accountability that's built into this bill too. Do you feel you are being as accountable as you can be for right now? [LB704]

MIKE LINDER: Yes. We've tried to get out as much information as we can. Besides these two reports, the federal Clean Water Act also requires every other year that we do a very detailed water quality plan. And it's all very available, it's all done under the oversight of EPA so I think there's accountability built in, yes. And I mentioned the \$1.3 million that are federal dollars and as you know, we have to account for each one of those dollars too. [LB704]

SENATOR DUBAS: Thank you. [LB704]

SENATOR LOUDEN: Other questions for Mike? Again, Mike, you said you've done 562 lakes and that sort of thing. What is your criteria for which lakes, I mean, you don't check them all and you don't plan on checking them all...what's your criteria? [LB704]

MIKE LINDER: No. We have 552 lakes listed in this book, but most of the lakes you've referred to in the Sandhills wouldn't be listed. They'd not necessarily be public access,

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but public lakes. I could get you our actual decision-making process on how we list a lake. I don't, off the top of my head, know that. But it's as has been mentioned before, it's not the farm ponds and unnamed lakes and small bodies of water, it's the more significant bodies of water. [LB704]

SENATOR LOUDEN: Well, I'm thinking of Twin Lakes as two and a half miles long and Black Lake that's a mile and a half long and all that, just, I mean, within not that far from where I live and I'm sure nobody bothers to go up there and is going to check to see whether they're swimmable or fishable or anything... [LB704]

MIKE LINDER: And I can either leave this here or you can look it up or I'll get you more information on how we make that decision. [LB704]

SENATOR LOUDEN: But as a rule, you don't go out through the Sandhills in the country like that checking all those, checking very many of the larger Sandhills lakes even the larger ones are on private land? [LB704]

MIKE LINDER: Yeah, we do some though. We do some of the bigger-named lakes. [LB704]

SENATOR LOUDEN: Okay. Thank you. Other questions for Mike? Seeing none, thanks for testifying, Mike. [LB704]

MIKE LINDER: Thank you, Senator. [LB704]

SENATOR LOUDEN: Anyone else wishing to testify in a neutral position? [LB704]

VERLON BARNES: (Exhibit 24) Good afternoon, my name is Verlon Barnes, B-a-r-n-e-s. I'm here as a private citizen today, although I have more than 20 years' experience working with the environment, land users on an individual basis, and on a watershed level, and including development of plans to address TMDLs in more than five watersheds. I believe everybody here today--the intent is that they would like to see clean waters and I am the same way. I believe we should protect, conserve, and improve our waters when we can. I should clarify, I handed something out and it got stapled in the wrong corner so it actually, you should flip it over from what you'd normally do and have the staple in the upper right-hand corner. And I believe that, again, everybody wants clean water but how we go about achieving it is different in people's minds. And again, I'm not really taking a for or against position today although if I had to, I'd vote against it because of the money situation. I don't think it's quite the right approach, so what I'm proposing is maybe to give you some information to consider, maybe a different approach. I'll go through the handout that I gave you just so you can be aware of what it is. The first sheet there is from DEQ's report back in 2002 of the waters. It is a little bit dated but it gives you the numbers of streams that are

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impaired and the number of lakes and so forth, and what category. The backside of that sheet towards the lower end it gives some percentages, kind of the third paragraph up, it gives some percentages of what the impairments are due to, what pollutants. And at that time 68 percent of the waters were impaired due to the presence of fecal coliform bacteria, 26 percent impaired by excessive nutrients, 11 percent by sedimentation, 9 percent by low dissolved oxygen, and then 4 percent were a mixture of ammonia atrazine, turbidity, and total suspended solids. That's probably changed some now. Currently there are, I don't believe they've been passed yet, but they're working on nutrient standards for streams that are not yet in place, so those streams that have been assessed at this point have not been assessed for nutrients because the federal level hasn't set standards yet. So once those are set, you are going to see a big jump in the percent of the streams and the lakes, I believe, or the streams, the lakes are already there, that the streams that are going to be out of balance as far as the nutrients in exceeding the allocations, so. The next sheet I have there is, there's a front and back sheet and it's out of the recent Journal of Soil and Water Conservation, February 2007. It's a project somebody did and they're reporting on it. But basically, in Iowa they did a study of pretty much the entire state and they went and evaluated whether conservation practices such as land set aside, terraces, grassed waterways, contouring, conservation tillage, and simple nutrient reduction strategies, what that would do for meeting the regulations and then what that would cost. Well, in their study, they found that the cost would range from \$300 million to nearly \$600 million each year for ten years to implement what they got proposed. And that would result in a reduction of phosphorus and nitrate from 6 to 65 percent and also 28 to 59 percent. So over that ten years you're looking at billions of dollars which I don't think we have in Nebraska nor does the federal level in order to implement that amount of money on a state-by-state basis. The next page is again, a front and back sheet, and what it is, is a copy of a Friday message by NRCS state conservationist, Steve Chick. At the bottom end I underlined the EQIP dollars which is the conservation program dollars that are implemented to private landowners and this past year, in FY'06, basically, they had \$25 million to work with, total for that program. Some of those dollars, \$15 million went to conservation-type practices which I discussed, like terraces and waterways and so forth; a little over \$3 million went to manure management. So you are looking at roughly \$18 million to \$19 million from the federal level coming into the state to address this issue. The next page is just a Nebraska profile sheet. I just highlighted the number of cropland acres, 22 million in the state. That's roughly half of the land that's in the farms, the rest of the other is grassland. And then the backside of that is the front page of an environmental trust proposal that was submitted for a practice called continuous no-till. And continuous no-till is different than conservation tillage. Conservation tillage still could include tillage of the soil and leaving a certain amount of residue, but continuous no-till and actually no till could be every other year, no-till in most people's minds. But continuous no-till would be every year is no-till, so no tillage whatsoever. And what that does is it builds up your organic matter in your soil which is the basis of your soil structure. And if you'll read that highlighted bottom paragraph there you can pick it out there that the practice of

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continuous no-till works across pretty much the entire state, soil erosion can be reduced by an average of 4 to 14 tons per acre. And that generally always gets it down to be lower than the tolerable loss of soil, down below five tons, and in many cases down below two tons and in some cases, it's actually below zero and actually building, so. And it also sequesters a high amount of carbon, it can reduce pesticide runoff by an average of 70 percent, water runoff by 69 percent, and soil erosion by 93 percent. It can save irrigation water, incorporate that, and it can increase wildlife numbers, and crop yields. It'll cut fuel usage by the producer by 50 percent. So it actually is an economic benefit to the producer as well and a multiple resource benefit to the state. [LB704]

SENATOR LOUDEN: Are you ready to take questions? [LB704]

VERLON BARNES: If you got a minute, I just wanted to...I believe part of the bill you have is, the intent is really good and I'd like to see something passed but I think I'd like to see some changes there. The idea of developing a plan within a six-month period for instance, I think that's a good idea. Whether an actual task force or just a small number of people should be involved originally in that plan, I think that could be changed. But I'd hate to see Nebraska get in a situation like Kansas has gotten in where they have kind of gotten sued and what's happened is they've been forced by the courts to go ahead and do these TMDLs and the studies to determine whether your streams or waters are impaired and the development of TMDLs don't get you anywhere to improving the water. And that's where I think we need to spend our money is there. And so, I'd like to encourage you to incorporate in this the practices of continuous no-till and organic farming. Those are the two key practices that put money in the farmer's pockets and address the issues of water quality to the greatest degree of any other conservation practices. [LB704]

SENATOR LOUDEN: Questions for Verlon? Seeing none, thank you for testifying in the neutral position. [LB704]

VERLON BARNES: Um-hum. [LB704]

SENATOR LOUDEN: Anyone else testifying neutral? Seeing no more testifiers and then Senator Preister has elected not to close, so we'll close the hearing then on LB704. We'll take a short recess and then we'll start on Senator Kopplin's bill at 4:00 p.m. [LB704]

BRIEF RECESS [LB704]

SENATOR KOPPLIN: Even the committee bailed on me. (Laughter) [LB594]

SENATOR LOUDEN: Thank you, Senator Kopplin. [LB594]

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SENATOR KOPPLIN: Thank you, Senator Loudon and member of the committee. (Laugh) My name is Gail, G-a-i-l, Kopplin, K-o-p-p-l-i-n, and I represent District 3. I'm here to introduce LB594, which asks for a two-year moratorium on new well drilling. Water. Everyone wants it, everybody needs it, nobody wants to be limited, nobody wants to pay the price. It's estimated that there are 17,000 irrigated Nebraska farms, which is about a third of our total farms, or 43 percent of our state's harvested crop land. Irrigators make up 1 percent of the state's population. Irrigation accounts for 94.4 percent of groundwater use; domestic use is .6 percent; public supply, 3.4 percent; livestock, .9 percent; industrial, .5 percent; mining, .17 percent; and thermoelectric power, .1 percent. During my years on this committee, I've heard so many issues regarding water use. Surface water users, groundwater users, Lake McConaughy, the Republican Valley, Pumpkin Creek, the Platte River. No one takes these issues lightly. Everyone wants a solution. Lawmakers are considering a halt to new wells and paying landowners to reduce irrigation. We simply do not agree and we just keep drilling. These issues are not new. Problems were pointed out in the early 1940s when the Nebraska Supreme Court noted the huge losses of water in the Platte River. Previous committees and departments have spent years seeking solutions. Comprehensive laws have been enacted and yet our water tables are at all time lows. Groundwater levels are 50 feet down in southwest Nebraska. Other areas range from 5 to 25 feet down. We're pumping water that seeped down in the early 1800s. We simply can't agree and we keep on drilling. An estimated 1,400 registrations last year. It is suggested that water well decisions are best left as local decisions made by those familiar with the areas. But local decision-making ended when the entire state was asked to pay for the problems created by past mistakes. We simply do not agree and we keep on drilling. Careful considerations have been given to appropriated water and curtailment. We've actually reached curtailment in some areas, and yet sand pits instead of wells and banked water are used as the source of water. We simply do not agree and the pumping goes on. Other areas claim to have sufficient water and yet river flows in the Platte River below the Loup and the Elkhorn are 10 percent of the flows this beautiful river once had. And the irrigation threatens to sap the Niobrara River, one of the showcases of Nebraska waterways. Our rivers are dying. So we disagree and the pumping goes on. Our great state is in its infancy in developing an exciting new industry, ethanol. I have been, and will continue to be, a proponent for the ethanol industry. The industry needs water--more wells. Much of the water used returns to groundwater sources. But still, the water doesn't return to the source from which it came. So we may not agree and the drilling continues. The corn producers, in order to provide the raw material for our budding new ethanol industry, will seek more water for more wells. Corn, that raw material used will probably change to other crops needing less water, but these new wells will continue to pump forever. We just don't agree but we keep on drilling. Our Governor in this great state recognizes the need for action including the establishment of \$128 million cash fund for meeting our commitments to water users and the environment. But his plan is met with immediate skepticism. It's too hard on the farmers, on the irrigators. We aren't causing the problem, claim the dryland farmers; why should

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we pay, the urban dwellers retort. So we don't agree and the drilling goes on. Cities and industry need water. It's essential to life, to jobs, family support. And yet we continue to drown our lawns and ignore simple ways of conserving. After all, only a small percentage of water goes this way. And so we disagree and we drill more wells. We must have a strong economy. Agriculture is a huge part of that strong economy. We need to continue to build that aspect of our economy. And yet, only 1 percent of our state's population is irrigators. Can we build our economy with a policy that is destroying our rivers and streams, our lakes, and our wetlands? And so we disagree and the drilling continues. We all recognize the problems. Numerous studies are seeking solutions; Lower Platte NRD study, the Water Task Force studies, the Governor's studies, the Department of Natural Resources searches for answers, but they have not found the solution. They need time to complete their work. And while they work to find the answers, the drilling goes on. Who knows what solutions these groups will have to offer. Perhaps they will find there is no problem and we can continue as is. Perhaps they will find the problems are beyond fixing and drilling must cease. Or perhaps they will find we need to limit our current use of water. Irrigators use an average of 8.3 million acre-feet of water. Maybe we will set irrigation use at 7.5 million acre-feet of water and we can continue to drill to our heart's content. But every well dug will mean a reduction for every water user. We need to give these groups time to work. We don't need to keep on drilling while they do their work. I offer LB594 to give that time. A two-year moratorium on the issuance of new well permits. This is not a permanent end to well drilling. It's a time-out, it's a slow-down, it's an opportunity to do what is needed. I urge you to advance LB594. [LB594]

SENATOR LOUDEN: Questions for Senator Kopplin? Seeing none, thank you, Senator. I presume you wish to close? [LB594]

SENATOR KOPPLIN: Definitely. (Laughter) [LB594]

SENATOR LOUDEN: (Exhibits 25, 26) Okay. How many proponents to we have to LB594? Three. Okay, is everybody else opponents? How many opponents? Okay, we got a bunch on that. Okay, thank you. Will the first proponent come forward please and get ready to testify? Right now I have letters of support to read, one from Mike Clements, Lower Republican Natural Resources District in support of LB594, and Claude Cappel, from McCook in support of LB594. Go ahead. [LB594]

LEN SCHROPFER: (Exhibit 27) Thank you, Sir. Good afternoon, Chairman Louden and members of the committee, my name is Len Schropfer, L-e-n S-c-h-r-o-p-f-e-r. I'm a farmer from Fillmore County. I thank you for the chance to be heard and I salute Senator Kopplin for having the wisdom and courage to introduce LB594. With the drought deepening and the aquifers and reservoirs falling, and the \$4 corn and ethanol boom going full tilt, the moratorium on irrigation development is necessary to deal with our water crisis and the Legislature has a moral and ethical duty to pass LB594. If we

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just wait for the processes of the NRDs and the Department of Natural Resources and the courts to kick in and play out, it may be too late. The longer we wait the more buyouts will be necessary. Lake McConaughy fell another five feet since this time last year. Every time I drive around my area, the Little Blue and the Big Blue watersheds, I see another prairie or old farmstead wiped out for a pivot--everybody trying to beat the moratorium. One of our Fillmore County supervisors advertises regularly for his booming business of custom-made pivot bridges so you can put a pivot anywhere. I'm an avid crusader for property rights but you can't carve up the water under your land or in your river like Jell-O or coal. Water moves and we share it, and the Creator gave us the Ogallala aquifer and related water for emergencies which seem to be coming, not to be frittered away for a questionable enterprise. In spite of all the hype there are serious questions about ethanol including whether it is really renewable, whether it produces more energy than it consumes; that's why it's had to be subsidized for so long. And most of those who hype it don't even mention it or factor in the likely exhaustion of our water to grow all that corn. If the Farm Bureau and the Legislature truly believe in farmers, they will support LB594 which tries to ensure a future for the children's and grandchildren's survival as well as for irrigation. The water is not a renewable resource at these rates of consumption. We have had precious little leadership from our Governor on this critical issue. He thinks all he has to do is start a money fund for Kansas. And surely it is time to listen to Senator Karpisek when he suggested that water users pay for their water. I have only four head of cattle now but I would be glad to pay the same per-gallon charge as irrigators. In closing, these petroleum wars are bad enough, let's try to head off the water wars. Thank you very much. [LB594]

SENATOR LOUDEN: Any questions for Len? Senator Fischer. [LB594]

SENATOR FISCHER: Thank you, Chairman Louden. Welcome today. [LB594]

LEN SCHROPFER: Thanks so much, Senator. [LB594]

SENATOR FISCHER: I appreciate you being here. You support the bill and you support a moratorium on all well drilling in the state of Nebraska, is that correct? [LB594]

LEN SCHROPFER: At least a temporary one as Senator Kopplin has outlined. [LB594]

SENATOR FISCHER: Do you believe that all areas of Nebraska are the same; all of the river basins are the same in decreasing? [LB594]

LEN SCHROPFER: No, obviously not, but I think we must take our lesson from those areas, those NRDs which have been drawn down. The drought is spreading. [LB594]

SENATOR FISCHER: Do you think consideration should be made when moratoriums...when we discuss even instituting a moratorium, should distinctions be

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made on the current flows in certain river basins and soil types in those river basins?
[LB594]

LEN SCHROPFER: I think those are worthy considerations. Remember this is only a two-year moratorium as outlined by Senator Kopplin and as I mentioned, I've seen the Little Blue NRD board of directors at work, closely. And at the rate they're going and the Department of Natural Resources and the courts, it will take too long. And frankly, I'm going to say this on the record, I don't necessarily trust the people running the Little Blue NRD to give us accurate data. I've heard the chairman say, well, you know, let's just give the state what they require, nothing else is necessary. That... [LB594]

SENATOR FISCHER: Do you believe that would apply to any of the other NRD districts? Do you have any knowledge of that? [LB594]

LEN SCHROPFER: I have knowledge of the Lower Elkhorn NRD being pretty fast and loose with figures where it comes to the recreation areas. I followed the Lee dam situation quite closely. They're pretty fast and loose with figures and I tried to point that out at previous hearings. [LB594]

SENATOR FISCHER: Do you have any data personally that would contradict information that any NRDs are putting out? [LB594]

LEN SCHROPFER: Not on water. I have not done that intensive a study. [LB594]

SENATOR FISCHER: Okay, thank you. [LB594]

LEN SCHROPFER: Thank you, ma'am, very much. [LB594]

SENATOR LOUDEN: Any other questions for Len? Seeing none, thank you for testifying, Len. [LB594]

LEN SCHROPFER: Thank you, Senator Louden. [LB594]

SENATOR LOUDEN: Next proponent? [LB594]

STEVE LARRICK: (Exhibit 28) Good afternoon, I'm Steve Larrick with the Nebraska Green Party and we are, I'm also elected to the Lower Platte South NRD but I'm not representing the NRD here although the Lower Platte South did vote in the last meeting to support LB594. We just see the data coming in as very frightening, the depletion of, the lowering of our groundwater tables across the state. It just seems to be in a free fall and we really need to be on top of this as we, again, as was mentioned with the big push now for more and doubling our corn production. It's a recipe for really serious problems, and we're concerned that some of the rivers feeding into the Platte are going

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to be greatly diminished and water supplies for our cities and communities are going to be threatened in the coming years. Some of the figures we've seen and I meant to pass this out. Again, it shows the decline in the groundwater tables, the dropping... [LB594]

SENATOR LOUDEN: Would you spell your name, Steve? [LB594]

STEVE LARRICK: Oh, I'm sorry, it's Steve Larrick, L-a-r-r-i-c-k. [LB594]

SENATOR LOUDEN: Thank you. [LB594]

STEVE LARRICK: Some of the figures that we're seeing now is that we've dropped down to the 1934 level and of course that was a time of great anguish for our country and the Dust Bowl days. And I think a lot of our practices are covering up greater environmental damage than we realize and so I'm so thankful to Senator Kopplin for bringing this forward. It is a real bit troubling, the whole issue of if you talk about slowing things down people just speed it up more and that's so tragic because that's what's happened here in Lincoln with the flood plain. We were seeing that too much of the flood plain was being filled in and so we started saying we need to slow down and put a moratorium on filling in the flood plain. But as soon as we mentioned that all of these developers had to fill in their (laugh) property, so they increased the value of their property. Now we have a much greater threat of flooding throughout some of the neighborhoods in the downtown area of Lincoln and the Haymarket and so we have to find some way to slow this down or else we are going to face much more serious problems in the near future. And again, the ability to replenish these water supplies is going to take a lot longer than the speed we're depleting it at and so we really need to put some brakes on it. So, any questions? I don't have any further... [LB594]

SENATOR LOUDEN: Any questions of Steve? Senator Christensen. [LB594]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. Steve, do you guys have a moratorium right now in your area? [LB594]

STEVE LARRICK: We don't. [LB594]

SENATOR CHRISTENSEN: Why not? [LB594]

STEVE LARRICK: Well, we haven't been required to but I think we want to do this as a statewide effort to show solidarity with the people who have already been forced by the science and the dire situation that they're facing, to put a moratorium on wells. I think as Nebraskans, we need to work together to solve this problem and so that's why we are willing to, even though we are not required to, to establish a moratorium on new wells...for two years, again. [LB594]

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SENATOR CHRISTENSEN: Okay. Also correct me if I'm wrong, but the NRDs were set up to manage and we have 23 different ones for the purpose of, we have different areas with different needs and solutions. So I guess I see that as NRDs were set up to be the leaders. If they need do to it, they need to put their own restrictions on, not rely upon the state to recommend it. Do you have decreasing water tables in your area? [LB594]

STEVE LARRICK: Yes, yes, most of the water tables are decreasing. There are a few isolated spots where there's a slight increase, but in general they are declining. [LB594]

SENATOR CHRISTENSEN: Would you agree with me the NRDs are set up to be the leadership? [LB594]

STEVE LARRICK: Yes, I think so, but frankly I don't know that the NRDs of the state are doing their job well enough in order to protect this long-term resource. And so, and again I think it's an issue, it just seems like there's this, well if we don't use it somebody else is going to use it, so let's use it as fast as we can. It just seems like that's kind of the attitude. Yeah, I just don't think--and that's the other part of it too, the idea was that local people would be more protective of their natural resources and yet all too often, the economic interests for the short-term profit is pushing the system toward a depletion route faster than we could have imagined. And so yeah, it's not sustainable, the direction we are heading, and so we need to put on the brakes and give two years to try to sort things out and figure out some better solutions. [LB594]

SENATOR CHRISTENSEN: Have you recommended to your board to have a moratorium? [LB594]

STEVE LARRICK: I would be happy to do that. Sure, and I think it's...yeah, I would... [LB594]

SENATOR CHRISTENSEN: I guess I see the NRDs are supposed to lead and observe their area and take care of it, I guess that's why I was asking this line of questioning, but.. [LB594]

STEVE LARRICK: Well yes, and like I say, yeah, I would agree. I would be happy to introduce legislation to have a moratorium in our area. The problem is that the rivers feeding into our water system are declining rapidly too, and so if that water continues to be used. And then Omaha, you have Omaha coming out and putting their wells in front of the Lincoln wells and so, yeah, it's a complex problem obviously, but yeah, again, we shouldn't be speeding up the rate at which we use the water that we have. That's just the main point. [LB594]

SENATOR CHRISTENSEN: Okay. Thank you. [LB594]

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SENATOR LOUDEN: Senator Fischer. [LB594]

SENATOR FISCHER: Thank you, Chairman Louden. Thank you, Mr. Larrick, for being here today. I appreciate you coming in. [LB594]

STEVE LARRICK: It's a pleasure being here. [LB594]

SENATOR FISCHER: Did you...maybe I missed it, but did you say where you were from? [LB594]

STEVE LARRICK: Lincoln, Nebraska. [LB594]

SENATOR FISCHER: And which NRD district are you in? [LB594]

STEVE LARRICK: Lower Platte South Natural Resources District. [LB594]

SENATOR FISCHER: Have you attended meetings? [LB594]

STEVE LARRICK: I'm elected to the board, yes, uh-huh. [LB594]

SENATOR CORNETT: The board, okay. Where did you get this information from that you passed out? I see you copied it from somewhere, I was..okay, I missed... [LB594]

STEVE LARRICK: This is a groundwater management area 2006 annual review and I just picked kind of a representational graph that showed the water table's decline and this was only like, gone down about eight feet or six to eight feet in one area but obviously across the state it's been, I've heard 35 feet in two years and other places well over 50 feet, so, it's, yeah... [LB594]

SENATOR FISCHER: Some of your comments disturbed me and you just made one there that disturbed me. You said there's a lowering of groundwater tables across the state. Do you have any proof of that? Because I have copies of some tables here where groundwater is rising across the state. You also just commented that all of our rivers are declining rapidly. Once again, I have some information in different areas of the state where that is not true. Would you have information to contradict me on that? [LB594]

STEVE LARRICK: Sure, I'd be happy to share information and see where we come out on this. I'm sure there's some areas that might be getting more water than others, but... [LB594]

SENATOR FISCHER: I guess I'm just...I get concerned with the idea that, and I'm not trying to act like our water situation in this state isn't a problem because it is a problem. And I agree with you that it affects all Nebraskans. I disagree when statements are

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made that this is happening all over the state, that we need to have a moratorium across the state to study it. I have, like I said, graphs here showing other areas of the state where it is not a problem and I'm always concerned of when we as senators or people come to us and want us to have a blanket solution for every area of the state and we don't take into any kind of consideration the diversity in this state, whether it's in soil types, whether it's in water, whether it's in the economies in different areas...just the idea that across the board this is what we need, this is what we need and so that, by gosh, that's what we're going to do. Would you like to comment? [LB594]

STEVE LARRICK: Well I went to the water conference the last several years and it just does seem to be that with the maps of the state, and we have thousands of monitoring wells, and it just seems if you look at the colors and you can see the little pockets where it's not declining and then the vast parts of the state where it's declining in some parts really tragically. And so... [LB594]

SENATOR FISCHER: But you feel we still, even in the little pockets where it's not declining that a moratorium should be in effect there? [LB594]

STEVE LARRICK: Well, it's a good question and it's like cigarette smoking, you know? Some people it may not cause cancer in... [LB594]

SENATOR FISCHER: Ooh, don't get us started on that one. (Laughter) [LB594]

STEVE LARRICK: Science is there that we are depleting the water in this state and I...it's...but, yeah, it's tough because there are some areas that don't face as serious a problem. But again, I guess it's just, I think as the people of the state, that we need to work together to solve this problem and if everyone opts out because they think their situation isn't as bad and we don't have a problem, then I think it just...again, as you say, the wells keep getting dug. And we just need to use some sanity here. [LB594]

SENATOR FISCHER: Okay. I appreciate your being here. Thank you. [LB594]

SENATOR LOUDEN: Other questions for Steve? Senator Wallman. [LB594]

SENATOR WALLMAN: Thank you, Senator Louden. Steve, can you give us roughly, a percentage so we know what's...not maybe today, but sometime, which aquifers are actually declining--the percentage of the state's aquifers? Is it 60 percent, 70 percent, 80 percent? We'd like--I guess I'd like to have an idea. [LB594]

STEVE LARRICK: I don't have the figures here. I guess I don't know the exact figures. [LB594]

SENATOR WALLMAN: Thanks, that's okay. [LB594]

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STEVE LARRICK: If you see that colored map and I should have brought that. It just seems like it's definitely the majority of the state. [LB594]

SENATOR WALLMAN: I probably got it somewhere. I got oodles of maps. (Laugh) [LB594]

SENATOR LOUDEN: Any other questions for Steve? Seeing none, thank you for testifying. [LB594]

STEVE LARRICK: Thank you, Senators. [LB594]

SENATOR LOUDEN: Any more proponents for LB594? Seeing none then we'll have opponents. Okay, what have we got, 20 people? Thereabouts? Okay, you're going to be two minutes. We are going to have to hurry it along here. [LB594]

SENATOR FISCHER: And short questions and answers... [LB594]

SENATOR LOUDEN: Yeah, it'll be short questions. [LB594]

SENATOR LOUDEN: (Exhibits 29, 30) While we are at it, I have two letters of opposition, Mike Murphy from the Middle Niobrara Natural Resources District, and Dennis Schueth from Upper Elkhorn Natural Resources District, in opposition to LB594. Go ahead, Sir. [LB594]

DON ADAMS: (Exhibit 31) Good afternoon, Senator Louden, members of the committee, my name is Don Adams, A-d-a-m-s, executive director of Nebraskans First, groundwater irrigators coalition. I've handed you a map that is the most current map from the United States Geological Service. It's so new it's not published, we had to get it off their Web site. It covers--you wanted to see map and colored pictures? You got it. This covers the time period 1950-2005. This is the definitive big-picture, bottom-line, no BS, real-world map that displays exactly what's going on with the Ogallala aquifer in Nebraska. It reflects 50 years of groundwater pumping and six years of a severe drought. Focusing on Nebraska you can see that there have been groundwater drawdowns in Perkins, Chase, Dundy Counties which is the Upper Republican NRD, and Box Butte County. The NRDs encompassing these counties have taken appropriate regulatory action to address the drawdowns by imposing moratoriums on wells and strict pumping allocations. The great news is that this map shows that the vast majority of Nebraska is not experiencing groundwater declines and much of the state north of the Platte River is actually experiencing rises in groundwater levels. Overall, groundwater level increases exceed groundwater declines. Contrary to what is reported in the state's major newspapers, the news is good and there is no statewide crisis. Major factors contributing to this good news are significant advances in irrigation

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technology such as center pivot sprinkler systems, the substantially reduced groundwater pumping needed to produce a crop, and irrigation management practices. Nebraska farmers are conservation conscious and good stewards of our water. Nebraska's NRDs are doing a terrific job in managing our water resources and they deserve great credit for their efforts and their commitment. All LB594 will do is shut down development in our state where there is no problem. This makes no economic sense. The one thing we do in this state better than anybody else in the world is produce food. Nebraska farmers and ranchers excel at this. Wherever possible in areas of our state, with no water shortage problems we need to develop our productive land to the maximum extent. Economic development and production should be encouraged. Choking it off for no rational reason is bad state policy. LB594 would put a great big closed for business sign on the part of our state that should remain wide open for agribusiness. Legislature Bill 594 would bring ethanol plant development and expansion to a screeching halt. In 2004 the Water Policy Task Force bill, LB962 was passed by the Legislature. LB962 is a major piece of legislation that prescribed the game plan for regulating new and existing irrigation development. Almost immediately, most of the Platte River Basin was designated as fully or overappropriated, all of the Republican River Basin was designated fully appropriated. These areas of our state are experiencing problems primarily due to the drought and the three-state Platte River Endangered Species habitat program and of course in the Republican, the Kansas settlement agreement. For the state's other basins, LB962 directs by January 1 every year, the Department of Natural Resources will complete an evaluation and prepare a report on which river basins are fully appropriated. In preparing the report, the DNR is required to use the best scientific data and information available. The annual DNR report for 2007 concluded that none of basins evaluated were fully appropriated and hence that moratoriums or stays on new wells need not be ordered by the state. If we hope to give LB962 meaning and allow it to work, bills such as LB594 which seek to supersede LB962, must not be enacted. And finally LB594 strikes directly at the heart of local control and violates the rules of the game prescribed in LB962. There is no rational or scientific basis for such a state mandate. We respectfully ask that you indefinitely postpone LB594. And Senator Fischer, your Sandhills area definitely needs a representative on the Water Task Force. I'm sure the Governor could get that done for you but you have not been represented on three years of meetings out there. Eight million acre-feet of water flow out of our state every year flow in the Gulf of Mexico with salt water. We don't have a water shortage problem in this state; we have a distribution problem and a management problem of not retaining enough water in this state. Thank you. [LB594]

SENATOR LOUDEN: Questions for Don? Senator Christensen. [LB594]

SENATOR CHRISTENSEN: Thank you, Chairman Loudon. Don, thank you. You don't have a problem if there's water decreases like these yellow dots of people putting on moratoriums in local like an NRD doing it that way, do you? [LB594]

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DON ADAMS: No, and the NRDs have stepped up in areas where we have the problems. They've implemented moratoriums and strict allocations. The NRDs are doing a great job. [LB594]

SENATOR CHRISTENSEN: Okay. You just don't want to blanket it. I just wanted to make sure I was... [LB594]

DON ADAMS: Right. Or we repeal LB962 then if we are going to go with blanket moratoriums. [LB594]

SENATOR CHRISTENSEN: Thank you. [LB594]

SENATOR LOUDEN: Other questions for Don? Seeing none, thank you, Don, for testifying. [LB594]

DON ADAMS: Thank you. [LB594]

SENATOR LOUDEN: Next opponent? [LB594]

LUMIR JEDLICKA: (Exhibit 32) Yes, Senator Louden, members of the Natural Resources Committee, my name is Lumir Jedlicka, spelled L-u-m-i-r J-e-d-l-i-c-k-a and I'm going to skip my credentials and move on so we can go through the meat of this. Lower Platte North is who I represent and has close to 5,000 irrigation wells along the major well fields that serve both Lincoln and Omaha MUD. We have very active programs for monitoring both the groundwater quality and quantity. History shows that our NRD was one of the first to place our entire district under Phase I restrictions for elevated nitrate levels. There's two small subareas are reading over 8 parts per million of nitrate. Two of these subareas have designated Phase II and placed requirements on those who apply nitrogen fertilizer and manure to their fields. Invoking these restrictions and requirements on my friends and neighbors did not come without criticism and the NRD, they thought, was going overboard when the nitrate levels had not reached the critical level of 10 parts per million. I use this as an example of how proactive our NRD is in protecting the groundwater resource. Recent drought years have taken their toll on our groundwater levels, but all four of our major groundwater areas show declining levels from our full aquifer readings taken in 1986. Only a small area of one aquifer has decreased more than 7.5 percent. Our plan has incremental percentages that triggers these different levels. The one subarea that shows a decline has placed into a Level I-A. Again, we were criticized for putting regulations in place on our friends and neighbors who still have over 185 feet of water in storage below them. Another example of how committed this district is, it's making the right decision no matter how unpopular it may be. This area is known as the uplands in our district. It is around the David City area where there might be an ethanol plant being built in the future. On February 14 our

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directors spent an entire day reviewing our water resources inventory, and I'll skip that part, but we spent time with Ann Bleed trying to get a handle on, get our directors all up to speed on how serious this is. The studies that we're involved in, in our groundwater areas, one of them is the subarea delineation study, at a cost of \$118,500. Our district has begun a two-year study to more fully define our four major areas. Delineating these areas will allow us to more closely manage our groundwater and keep them sustainable. Another study the Lower Platte North is doing is a Platte River groundwater model at a cost of \$220,458. Our district has begun this three-year study to model the interconnection of the Platte River to the alluvial aquifer. This aquifer supports the most intensive irrigation in our district along with 95 percent of Lincoln's water needs, along with in 2008 over 35 percent of Omaha's water needs are going to come from out of the bottom corner of our district. And of course, we have small communities and Fremont is 100 percent out of the aquifer. Now the other study, eastern Nebraska water resources assessment at a cost of \$1,920,000 and we are the leading agency in this three-year study which delineates aquifers within the glaciated areas of eastern Nebraska. Eighty percent of this study's costs are being funded by DNR with the remaining cost apportioned to the six participating NRDs. Our individual investment is \$80,000 over the three-year period which is considerably less, but there is a lot of area involved in that and so there is a lot of cooperators. The other study is the Elkhorn Loup model and we are a major player in this modeling effort on the high plains aquifer which sits under the Loup and Elkhorn Basins. Our NRD manages Shell Creek which divides the eastern portion, if you can imagine this, divides the eastern portion of the two river basins, so we're right between the Platte and the Elkhorn with this Shell Creek. And so there's some overlying areas there that are, where the water may be flowing both directions so to say. So that's helping fund that study at \$9,000 of the \$1,976,000 total costs for the three-year study. In February of this year, our water committee directed staff to begin work to place a well moratorium on glaciated areas of our district until our sub-basin delineation study is completed so we have this moratorium thought in our...okay. This glaciated area contains pockets of good water yield, however, placing high-capacity wells in one of these small pockets often causes problems for domestic and livestock well drilling. When our study is complete and the moratorium lifted in two years, a plan to manage these glaciated areas will be in place. Today, you are considering legislation to implement a statewide well moratorium which we believe is unfair to those of us who have worked diligently for our local constituents. The expense of water problems in this state faces are not east, north, or north of Columbus. I have spent countless hours at the NRD, Water Policy Task Force and other meetings across the state and nation to educate myself. Nebraska's created these NRDs, it's created the Water Task Force and it's passed the law LB962. All of these are tools plus the checks and balances are in place to manage our ground and surface water supply in a sustainable way. You, as legislators, and I as an NRD director, were elected to make these best decisions for our state and district. I believe I understand the concerns and feelings of my constituents. We feel it would be an emotional decision, not one based on science, if you did this, to place a statewide moratorium on the Lower Platte North NRD at this time. And if this bill

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should go through, it would be a shame not to put a stay on surface water and that's in addition to my comments that's not on the sheet here. But a stay needs to put on surface water if you're going to do this for water wells. [LB594]

SENATOR LOUDEN: Questions for Lumir? Senator Wallman. [LB594]

SENATOR WALLMAN: Thank you, Senator Louden. Just one. Do you think any drop, say five foot, two, foot, one foot, does that have an effect on streams? You know, I can remember as a kid with fishing holes and like the Little Nemaha and that, it's gone. When irrigators start, there's no water. [LB594]

LUMIR JEDLICKA: I can say that being on the task force, being in the Republican Valley on a hot summer day and then coming back to the Wahoo area where the NRD is, or that I'm at, I'm counting my blessings that we still have a lot to manage. There is such a difference in the way the glaciated areas are underground that we do not understand them. And on these studies that I talked about are so important and our tax dollars are money that we are asking our constituents to put forward for these studies, is out there, coming in right now, and it's being done. [LB594]

SENATOR WALLMAN: Okay. Thank you. [LB594]

SENATOR LOUDEN: Any other questions? Senator Christensen. [LB594]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. (Inaudible) just to address I commend you for what you guys are doing and to thank you for that. Also to just point out on the bill, line 14, page 2 does say application for water wells and surface water appropriation, so to address that part. Thank you. [LB594]

LUMIR JEDLICKA: Okay. Thank you, Senator Christensen. [LB594]

SENATOR LOUDEN: Any other questions? Seeing none, thank you. [LB594]

JAY REMPE: (Exhibit 33) Senator Louden, members of the committee, my name is Jay Rempe, that's J-a-y R-e-m-p-e. I'm state director of governmental relations for Nebraska Farm Bureau Federation, here today in opposition to LB594. Given the lateness of the hour and the time, I'll try to make this as short as possible. You're going to get inundated it looks like with maps today, let me, we're going to share a couple of maps with you as well. But first I want to just say that we appreciate Senator Kopplin for introducing this bill because I think anytime we can get a chance to talk about protecting our water resources in this state, it's an opportunity we need to welcome. And we do share the concern in trying to protect our water resources, we just disagree with the way LB594 goes about it. Let me explain the maps real quick to you that I have handed out. The one shows, it comes from the University of Nebraska, from the conservation survey

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division. Each spring they put out a map of the groundwater level changes in Nebraska and this one shows from predevelopment to spring of 2006 and so you can see a little bit what's happening in the state in regards to groundwater level changes from predevelopment to 2006. The second map came from the Department of Natural Resources and it shows the restrictions that are already in place on irrigation development. And you can see there's red, yellow, and green and a little color that looks like kind of an off-brown color, I don't know, I'm not good with colors so I don't know how you describe that. But the yellows and reds and that off-brown color are all areas that are currently under restrictions, either through LB962 or NRD-imposed. The yellow ones are NRD-imposed restrictions on irrigation development, well development. So you can see the areas in green are the areas that would be impacted under LB594 as far as a statewide moratorium goes into place. And if you compare the two maps and look at them together, the majority of the area that would be impacted by this in the north and northeast part of the state are not showing up as having any problems on groundwater level changes. The one exception would be the area down in Hamilton, York, Fillmore County, Clay County we're seeing some drops there, it looks like 5 to 15 feet maybe. But I know in that area the Upper Big Blue NRD, I think, is already taking some steps to try to address that situation. So I just wanted to point that out to you as you consider this bill. Our primary concern with this legislation as someone already stated, is that it undermines LB962. The whole purpose of LB962 when it was enacted, is to do exactly what LB594 seeks to achieve and that is to look ahead, look into the future, and try to determine whether we're going to have problems and when we see problems, call a halt to it, give some time, call a time out, to try to study the situation further. And I would say that as was mentioned earlier, that each year the Department of Natural Resources has to do that. And when they consider groundwater development in their analysis, they analyze the impacts of groundwater development 25 years into the future as best they can when they look at it. And so they are trying to take a very conservative approach when looking at whether an area is fully appropriated or not. So for that reason, our primary objection to this bill is we think both through LB962 and through the NRDs, the mechanisms are already in place to address these issues and we would ask this committee to continue to allow those mechanisms to work. And with that I will be happy to answer any questions you may have. [LB594]

SENATOR LOUDEN: Any questions for Jay? Senator Christensen. [LB594]

SENATOR CHRISTENSEN: Thank you, Chairman Loudon. Jay, thank you. You mentioned some of these are addressing these 10- to 30-foot decreases but are the rest of them addressing it, and at what point in time do they need to be addressed? You know, if we drop 10 feet is that okay? Where do we need to address it? [LB594]

JAY REMPE: You know, the state is so diverse and the geology and the hydrogeology is so different from location to location, I'd hesitate to answer. I think with given the issues that we have in other parts of the state, I think all the NRDs are very much aware

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and very cognizant of the issues in trying to address them. And I think those decisions are both best left, I guess, to local NRDs and through LB962 because those would start showing up through the LB962 analysis as well. And I think those mechanisms--so I'd hate to try to say, well, 10 feet is an appropriate level, or 15 feet, it all depends on the depth of the water and the saturation thickness and all of those kinds of things that I wouldn't even begin to be able to answer, I guess. [LB594]

SENATOR CHRISTENSEN: Do you know...you mentioned Upper Big Blue's addressing it, how about...it looks like some of the Little Blue and Lower Blue are starting to get into decreases. Are they addressing it, do you know? [LB594]

JAY REMPE: Um-hum. That I can't answer. [LB594]

SENATOR CHRISTENSEN: Okay. Thank you. [LB594]

SENATOR LOUDEN: Other questions for Jay? Thank you, Jay, for your testimony. [LB594]

DUANE FILSINGER: (Exhibits 34, 35) Good afternoon, Senator Louden, and follow Senators. My name is Duane, D-u-a-n-e, Filsinger, F-i-l-s-i-n-g-e-r. I'm the manager of the Lower Niobrara NRD and I'm speaking a few words in their behalf this afternoon. The board of directors of the Lower Niobrara Natural Resources District voted at their March board meeting, to oppose LB594. The board feels that this bill interferes with the development of an answer to the proper management of surface and ground water in the Niobrara River Basin. What is our NRD doing to manage in the Niobrara River Basin? We are following our groundwater management plan which includes spring and fall measuring of 75 groundwater wells in our district. This was started in 1996. In the past four years as I've been manager we have not seen any decline. We do see a decline and I will say this and this may be for some of the figures that you are talking about, we see a decline in the fall of normally 1.5 to 2 feet due to the fact of the irrigation through the summer. But we do see a recharge in that over the winter and the spring one is always up and consequently, they balance each other out. We are also active in the Elkhorn-Loup modeling study with six other NRDs. There is a gauging station on the Niobrara River at Verdell, that's in western Knox County in our district. It indicates that the annual water flow during the 2000s is higher than it was in the 1970s. I'll take a quick second of your time, you've had a lot of maps, but if you'll look at the map that I passed around, it's cubic feet per second. It starts in 1939, one of the lowest years on record, it goes into the '60s which were wet years early. Late '60s, '70, were dry years, you see quite a decline. It jumps back some in the '80s. The '90s were extremely wet years in our areas, some of the highest on the chart. But if you look at 2000, 2002, and 2004, you'll see that they have not dropped back to those levels and they are actually higher than they were in the 1970s and part of the '60s, and we've...do not see the decline in the river that everyone else is talking about today. So I wanted to

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present you with the fact and that is a gauging station that was installed by the USGS and the actual gentleman that runs it is employed by DNR through the Lincoln area. Also, number four, the employees and directors have been working on neighboring Niobrara NRDs, with federal, state, and local agencies along with businesses and private landowners in the Niobrara River Basin, for a solution that would be acceptable to all. We feel LB594 does not offer an acceptable solution to our basin. The Lower Niobrara River Basin as well as the state of Nebraska, is a very diverse makeup of soil types which calls for different agricultural strategies to raise a crop. A very important element in raising a crop and helping Nebraska's economy is water, whether it is natural or irrigated. With the diversity of the state, the management of the groundwater needs to be under the local control with people who are familiar with local needs. LB594 does not address or work with local issues with its broad suspending of surface water and well permits. Finally, our NRD is frustrated with the timing of January 1, 2007, as the start of the time period. We have received well permits that must be approved or declined within 30 days and we do not have time to sit on the permits forever. We have approved 28 permits this year and I want to show you a little bit about what that amounts to. In 2005 we approved 12 for new irrigation units and last year we approved 15 as 27 in one week this year after news of this bill came out, we received 22 permits. So the one thing that the water management area did not want was a large increase on new well and surface water permits in 2007. And would you believe the one thing that the news and discussion of this pending bill has done, has increased new permits in our NRD and other NRDs from 200 to 300 percent and this is only over a two- or three-week period compared to a full year last year? LB594 is already creating some great problems and we're just here at the hearing, we haven't even went further than that. So LB594 is definitely not the answer to our state's management issues. I appreciate your time and would welcome any questions. [LB594]

SENATOR LOUDEN: Any questions for Duane? Senator Fischer. [LB594]

SENATOR FISCHER: Thank you, Chairman Loudon. Welcome today, Duane, and thank you for driving down. You gave us the chart for the Verdel gauging station. Can you tell me how many gauging stations there are along the Niobrara River? [LB594]

DUANE FILSINGER: Yes. There are eight. There's four in the Upper Niobrara; I believe there's two in the Middle Niobrara, and we actually have one and I guess I misspoke, there are seven. We also have information at one at the Spencer Dam which was pulled in 2001 due to the end of a grant. So we have information available on eight. [LB594]

SENATOR FISCHER: I have some information from the Sparks gauging station... [LB594]

DUANE FILSINGER: Yes. It's Middle Niobrara... [LB594]

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SENATOR FISCHER: ...and it too shows steam flows constant or increasing over the time period. I appreciated your comment that perhaps the perception that the Niobrara River is decreasing and the stream flow is false. Thank you. [LB594]

DUANE FILSINGER: Thank you. [LB594]

SENATOR LOUDEN: Other questions for Duane? Seeing none, thank you for testifying. [LB594]

DUANE FILSINGER: Thank you for your time. [LB594]

JERRY HEITHOFF: (Exhibit 36) Good afternoon, Senator Louden, committee members. I am Jerry Heithoff, J-e-r-r-y H-e-i-t-h-o-f-f, chairman of the Upper Elkhorn NRD, located at 301 North Harrison, O'Neill, Nebraska. I want to thank Chairman Louden and the rest of the Natural Resources Committee members for hearing testimony on LB594. Within the past five weeks you have received a document dated February 10, 2007, that included static water levels, surface water gauging station flows, and well permits issued by the district from Dennis Schueth, general manager. We hope you have had the opportunity to review that data and we will be submitting that document today as part of our testimony and we do have extra copies if anyone needs one. Senators, the Upper Elkhorn NRD is in opposition to LB594. This bill seems immaterial after the passing of LB962 by the state legislature in 2004 which gave the responsibility for implementation of the law to the Nebraska Department of Natural Resources and the natural resource districts. LB962 was a water law. It was formulated by 49 representatives of surface and groundwater users, natural resources, and power districts, municipalities, agriculturalists, recreational, and environmental enthusiasts. The Upper Elkhorn NRD feels that LB962 is the appropriate piece of legislation that determines if a basin should be labeled fully appropriated or not and outlines procedures in developing an integrated management plan. Senators, we do not feel that one plan fits all and a blanket moratorium is the answer for the entire state of Nebraska. Even, LB594 does not treat the whole state as equal because it impacts only the area of the state where natural resource districts that require well permits. Senators, each river basin is different and each basin is dependent upon various levels of groundwater recharge and surface water runoff and LB962 is supposed to tell us if water uses and recharge is at an equilibrium. The Upper Elkhorn NRD was not fully appropriated by the Nebraska Department of Natural Resources on January 1, 2007, and this is an indicator that there is still available water for agriculture and other industry development. Since 2002 we have been experiencing a drought and none of us know if it will end this year or not. Prior to that time period static water levels had been increasing throughout our entire district. In 2002 groundwater levels had been declining until this past spring in 2006. In each of our district subdivisions our spring static water level measurements from 2005 to 2006 show an average increase between 1 and 2 feet. I am including maps from the conservation and survey division that show static water level increases

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or decreases throughout the whole state. Senators, the Upper Elkhorn NRD is adding additional static monitoring sites, installing transducers in monitoring wells that continuously record static water levels. The district is cooperating with the various NRDs, state and federal agencies on studies such as the ELM study and recently approved CHEN study with the conservation and survey division. These studies will give DNR and districts involved a better tool and a better understanding of the interconnectedness of ground and surface water within our basin. The DNR is committing to install another stream-gauging station between the borders of the Upper and Lower Elkhorn NRDs which will give us another tool to measure the interconnectedness between surface and groundwater within our basin. We previously submitted to you stream-gauging data from the three stations within the Upper Elkhorn NRD. The Elkhorn River begins in the Upper Elkhorn NRD and is considered primarily a gaining stream from groundwater. Senators, as we develop our trend lines for each of the gauging stations, and as we move west to east, and the trend line shows increasing surface flow as it leaves our district. Since the passage of LB962, the Upper Elkhorn NRD is evaluating our current groundwater management plan and reviewing action taken by other districts that have been labeled fully or overappropriated. Again, I want to thank you for the opportunity to testify on this bill and I would field any questions. [LB594]

SENATOR LOUDEN: Any questions for Jerry? Seeing none, thank you for testifying. [LB594]

DENNIS SCHUETH: (Exhibits 37, 38) I'm Dennis Schueth, general manager of the Upper Elkhorn NRD, and Mike Onnen was not able to be here. He's the general manager of the Little Blue NRD and I have testimony from two of his board of directors, Wryan Wright, his first name is W-r-y-a-n and last name is W-r-i-g-h-t, and then also the other member is Rich Kahman, R-i-c-h K-a-h-m-a-n. They would like to submit this as testimony. They were in opposition of it. My last name was spelled S-c-h-u-e-t-h. Thank you, Senators. [LB594]

SENATOR LOUDEN: Okay. Thank you. [LB594]

SENATOR FISCHER: May I ask a question? [LB594]

SENATOR LOUDEN: Questions? [LB594]

SENATOR FISCHER: Thank you for being here today, Dennis. You sent this out in the mail, I believe, the packet of information... [LB594]

DENNIS SCHUETH: Yes. [LB594]

SENATOR FISCHER: ...and I have, I guess, a question. On the graphs that are

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included in the packet that you sent to all of us, it's the static water level? I'm looking at the Rock County static average levels and I guess I want to make sure I understand what these different graphs are showing. [LB594]

DENNIS SCHUETH: Okay. [LB594]

SENATOR FISCHER: The red line is the what? The average level? The lowest level? [LB594]

DENNIS SCHUETH: The red line represents the year that corresponds with the lowest reading level of our static water levels. And so that was back in '91 or '92 and I'm still trying to find that. But if you can see the first number that's in the bottom where it intersects? Could you tell me what that... [LB594]

SENATOR FISCHER: Like the 91:21...? [LB594]

DENNIS SCHUETH: That would be...yeah, that was 1991 that the static water levels were at their lowest since we started taking water levels in '76. [LB594]

SENATOR FISCHER: I guess I, in looking at these charts, in most cases the level has risen. Is that unusual, is that kind of normal, how this happens? What is it telling me? [LB594]

DENNIS SCHUETH: I think within the Upper Elkhorn Natural Resources District which you mentioned earlier, we're very different from other parts of the state. We have a lot of sand, the Sandhills are there, the gravels. So when we get precipitation events in our neck of the woods or to west, instead of that precipitation running off, it actually goes down into the aquifer system, or through the soil profile. It may take a couple of years or years to get there, but the Sandhills is a big sponge for us and so we actually see very quick responses to precipitation events. [LB594]

SENATOR FISCHER: Okay. Thank you very much, and I appreciate your sending this information out in advance, thank you. [LB594]

DENNIS SCHUETH: Okay. Thank you. [LB594]

GARY WESTPHAL: Mr. Chairman, members of the Natural Resources Committee, my name is Gary Westphal, G-a-r-y W-e-s-t-p-h-a-l. I'm here representing the Nebraska Water Coalition and that's made up Nebraska Water Resources Association and the Nebraska State Irrigation Association. I'm a registered professional engineer, registered in the state of Nebraska, and I started working in the water business in the early '70s. And I was privileged to be a part of shaping the NRDs throughout the state. I'm here in opposition of LB594. Some of the things I would like to talk about is the drought

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situation we've been dealing for seven, eight, nine years depending on the part of the state you're involved in. We don't need a plan that is totally statewide to fix the problem. Certainly we have the NRDs to deal with it locally and a one size fits all. If you're like me, if you get something that says one size fits all, you are not very happy with it because it's not going to fit you. The diversity in Nebraska, the elevation, the weather, the soils from Wyoming state line to Omaha, are more diverse than they are from Omaha to Washington, D.C., so again, a blanket will not fix the situation. As was stated earlier by Senator Christensen, we have nearly 2 million acre-feet of water that flows into the state annually on average and nearly 8 million flows out, so certainly you could assume that there are some parts of the state that have excellent water supplies. And we've heard from some NRDs that are managing theirs properly and the groundwater levels are good. The other thing I want to talk about was is the ethanol and I heard Senator Kopplin talk about that; he's supportive of it. This bill could hurt production of ethanol in Nebraska and certainly Nebraska has a great opportunity here. So I'm again, just here to be in opposition to LB594. Any questions? [LB594]

SENATOR LOUDEN: Questions for Gary? Seeing none, thank you, Gary. At this time we'll...any of you that are kind of close around there, don't talk because the transcriber's picking it up on the microphone, so you'll have to do it someplace else. Go ahead. [LB594]

CURTIS FRIESEN: (Exhibit 39) Good afternoon, Mr. Chairman, members of the committee, I'm Curtis Friesen, C-u-r-t-i-s F-r-i-e-s-e-n. I'm chairman of the Upper Big Blue Natural Resources District; I'm also a member of the Governor's Water Policy Task Force. I'm here on behalf of the Upper Big Blue to testify in opposition to this bill. I'll try not to duplicate any of the previous testimony, there's been quite a bit so I'm going to kind of skip through things if I could. One thing I'd...I think those who have been reading the newspapers in the state probably think the NRD boards have been sitting on the beach at McConaughy sipping a margarita thinking my, what a wonderful beach this is, but that is the farthest from the truth. We've been working hard, we've been working diligently, and I feel that many of the us are on the leading edge of water research. The Upper Big Blue, if you'll notice we started our groundwater regulations, where first our management areas were first put in place in 1979 which is only two years after the authority to grant that was given to us. So we have been I think, very active in our groundwater management in our area. We've had a financial commitment to groundwater management. The district has spent over \$2,500,000 on groundwater quantity management since the groundwater management act has been implemented in 1977. An additional \$1,400,000 has been spent on groundwater quality management since 1993. Of this \$3,900,000 total, \$2,325,000 has been spent in the last ten years. These total expenditures have been funded by \$2,300,000 from district property taxes to help fund that. We have done it on our own and we think we have been a leader in the state. You can see on the next page here where the timeline of some of the things that have been implemented in the past. We're involved in many studies. We started

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some of our groundwater management studies long before even LB108 was passed so we had a lot of data, I think, that was available. If you look on the back on page 6, there's a graph of what our groundwater levels have done and you'll notice that earlier there was reference to we've dropped 10 to 15 feet. But if you'll look at the chart that is a drop from levels that had risen 10 to 15 feet so currently we're not that far from predevelopment. We are still not at our all time lows which occurred I think, I believe, in 1979. So I think our management is still working even though we have added acres. Our regulations are in place; we look at them regularly. In 1979 is when we adopted a 1,000 foot well spacing requirement which was much more than what the state required at that time. In 1990 we looked at our rules and earlier discussion had always been on whether or not we could, how long we could make our aquifer survive. In 1990 our rules were rewritten in order to say that we were going to have sustainability. We had learned more about our aquifer and so we were more comfortable feeling that this was something we could sustain year in and year out, so we've been talking about that issue for a long time. In 2005 a small portion in the upper Hamilton County area was declared fully appropriated as far as the Platte River is concerned. We have implemented a moratorium in that area; there will be no new development. We understand the implications of that and we're willing to take those actions; we're not afraid of that. We've just recently, according to our regulations, tripped a requirement that certifies all our irrigated acres in the district. We began certifying in October of this year. We're currently at about 92 percent done, right at 1,100,000 acres. We will require water use reporting and if we hit another trigger level we will require meters. Currently we have a cost share program on meters through a grant from the Environmental Trust so we starting to spread the meters around the district so people are learning more about the amounts that they are pumping so that we can get a better handle on probably our use. I think what sometimes we're seeing right now is our actual pumping is lower than what he had anticipated. Currently we are involved in several studies with different areas of our district that are having problems that are not district-wide. We've been a part of the COHYST study which is part of the Platte. We've studied the Platte River from that standpoint. We are also working with the NRDs, the Little Blue River, studying that now. Our engineers that we have on staff I think are second to none in the state and we are working with those in order to develop some criteria on water use in those areas also. We are, as far as I know, the only district that has adopted what we call large groundwater user regulations and those were adopted in 1999, long before all the talk of ethanol plants and large water users were popular. Currently we have, I think, five ethanol plants have submitted plans to us, or for permits. Three of those have been approved; two of them are still continuing their studies as well as to the impact on our groundwater area. The board, I feel, has looked long and hard at these. They do not just look at the economic development that that might bring but they are looking to see that these plants will be sustainable in the future. With that I would urge you to postpone indefinitely this moratorium. I strongly feel I guess, that we have done our job and will continue to do our job, and we'd be more than willing to work with you if there are specific concerns that are out there. But as far as a statewide moratorium, the geology

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of the area in the different regions are too diverse to just do a blanket policy. So if there's any questions, I'd be glad to answer them, and thank you for your time. [LB594]

SENATOR LOUDEN: Questions for Curtis? [LB594]

SENATOR WALLMAN: Chairman Louden, thank you. [LB594]

CHAIRMAN LOUDEN: Senator Wallman. [LB594]

SENATOR WALLMAN: Yes. Do you think you ought to have a moratorium in some of your regions in here? I'm in Gage County. [LB594]

CURTIS FRIESEN: We have, I don't think we reach, do we reach down into that area? We have certain areas in our district where... [LB594]

SENATOR WALLMAN: I'm in the Big Blue. [LB594]

CURTIS FRIESEN: ...I feel we have--it's not a quantity problem so much as it is a transmissivity problem. There's too many wells in that area for the transmissivity of the water. It's not really a level problem. So I guess that's probably why some of our 1,000-foot spacing came in earlier already. We're looking at new regulations for some of those areas currently. [LB594]

SENATOR WALLMAN: Because some hog producers and that are scared about the water. You know, and irrigation is going there. There are farm wells that suck air, so. And I got friends that irrigate. So would you recommend a moratorium in just certain areas? [LB594]

CURTIS FRIESEN: We are studying it. [LB594]

SENATOR WALLMAN: How many new permits have you got filed? [LB594]

CURTIS FRIESEN: I can't give you the number this year. We just looked at that this morning but I'd...rather than give you the wrong number. Our numbers have spiked a little bit this year but not, I don't think, as bad as what I thought. The drought, I think, has driven more of it lately. But every time there is statewide talk of a moratorium, we have seen a spike in our drilling. [LB594]

SENATOR WALLMAN: And \$4 corn, right? (Laugh) [LB594]

CURTIS FRIESEN: It will have something to do with it, I'm sure. [LB594]

SENATOR WALLMAN: Yeah. Thank you. [LB594]

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SENATOR LOUDEN: Other questions for Curtis? Senator Christensen. [LB594]

SENATOR CHRISTENSEN: Senator Louden. Curt, thank you. This is very detailed and I appreciate that. [LB594]

SENATOR LOUDEN: Other questions? Seeing none, thank you for testifying. [LB594]

DALE WILES: Senator Louden and members of the Natural Resources Committee, I am Dale Wiles, D-a-l-e W-i-l-e-s, representing the Nebraska Well Drillers Association here today in opposition of LB594. Our organization represents the professional water well industry in Nebraska. We have always urged the wise development and the use of the state's groundwater resources. Our organization supports decisions regarding groundwater use based upon sound science and groundwater management determined according to the laws by the natural resource districts up across the state. The natural conditions in groundwater resources vary so much across the state that only realistic means to proper management decision-making is by region and by natural resource districts. We believe that a mandated statewide moratorium on irrigation wells use takes away the local decision-making directed by LB962. We believe the natural resource districts should be allowed to do the job assigned by LB962 and we believe that the districts have demonstrated the responsibility given to them by the law. Last year only 427 new irrigation wells were drilled. Old registration wells two years to forty to fifty years old amount to 599 and replacement wells amount to 388. The state Omaha World-Herald published 1,400 wells. There are 1,414 in that number but that's what it amounted to. The current local laws are doing what is intended. There is no need for state mandated prohibition. There is no extra funding available to develop sound science needed to further act to the changes of public policy where that is not necessary. We urge the indefinite postponement of LB594. Thank you. [LB594]

SENATOR LOUDEN: Questions for Dale? Senator Fischer. [LB594]

SENATOR FISCHER: Thank you, Chairman Louden. Mr. Wiles, I thought that was an interesting comment that you made about the numbers of wells. Could you repeat that? Because usually what we see and what we read is a total number and I am always, truly, I am always appalled at the number of wells I think are being drilled in the state. So could you read that again? [LB594]

DALE WILES: Yes. Those numbers are: new wells, 427; old registrations, these are wells that people had not registered, finally figured out it was time to register, or for whatever, 599. And replacement wells, 388...300... [LB594]

SENATOR FISCHER: And what's a replacement well? [LB594]

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DALE WILES: A replacement well would be is you had a problem with your well, you would replace that well. The old well would be taken out so we aren't adding any more wells to the aquifer, we're using the same amount by one well. [LB594]

SENATOR FISCHER: Do you have information that you could get us on that for you know, how many years back can you go that you could give us that information? [LB594]

DALE WILES: Yes ma'am, I can get that, that's from the DNR themselves. We'll get it to your office. [LB594]

SENATOR FISCHER: Thank you very much. Thank you. [LB594]

SENATOR LOUDEN: Senator Kopplin. [LB594]

SENATOR KOPPLIN: Do you suppose there's other wells out there that people haven't bothered to register? [LB594]

DALE WILES: Yes, Senator, there are and there will be. [LB594]

SENATOR LOUDEN: Other questions? Senator Hudkins. [LB594]

SENATOR HUDKINS: To follow up on that question, but any new wells have to be registered, don't they? [LB594]

DALE WILES: We have a limit of 60 days to register a new well. [LB594]

SENATOR HUDKINS: Thank you. [LB594]

SENATOR LOUDEN: Other questions? Thank you for testifying. [LB594]

JERRY STILMOCK: Senators, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k. After listening to the testimony this afternoon I simply cannot add anything that everybody else hasn't already said, so I would like to add my client's name to those in opposition, the Nebraska Bankers Association. It certainly sounds like the representatives of the NRD that you've heard from are trying to make as best they can, LB962 work and for those reasons we oppose LB594. Thank you. [LB594]

SENATOR LOUDEN: Any questions for Jerry? Seeing none, thank you, Jerry. [LB594]

JERRY STILMOCK: Thank you. [LB594]

TONNY BECK: It's almost evening instead of afternoon. My name is Tonny Beck,

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T-o-n-n-y B-e-c-k. I am a third-generation water well contractor from Ainsworth, Nebraska. Our business was started in 1950; we've been at it in north-central Nebraska for 57 years now. Our service area spans from Cody, Nebraska, to O'Neill, north to Winner, South Dakota, south nearly to Broken Bow. And my purpose here today is to try and shed some light on the geology of our region and help you understand that not every part of this state is the same. And when we talk about 32 foot of water in the state of Nebraska on average, you need to understand that in my neighborhood, we're sitting on top of 600 foot of it. So I implore you to get a better grasp on what reality is now and what the Omaha World-Herald has to say. Because the issues up in our neighborhood, if you look at it from the outside looking in, you look at our NRD and you say, well, the Middle Niobrara hasn't done anything to speak of to protect our groundwater. The reality is we have so much of it there hasn't been much to protect; we haven't even scratched the surface. And there's been documentation already put in today that shows that the Niobrara flows are increasing. And those are increasing even though we've put irrigation production in place, and even though Merritt Dam has been put into place. And I guess I hope to be able to answer a few questions as to how that's possible, this afternoon. One of the things that's different about our area from anywhere else is that the Niobrara Basin, the river itself, sets below the water-bearing aquifer, not by just a little bit but by a dramatic amount. And what happens is all of the streams that feed that river are being fed by excess groundwater. Long Pine Creek for example, has 285 feet of elevation change in 28 miles from where its headwaters are to where it dumps into the Niobrara. That's how our flows are increasing. Those streams continue to erode deeper and deeper and as they erode deeper and deeper, they're taking more of our groundwater and putting it into that basin. And I guess I would like to open it up to questions. I hope that there are some questions from you people, to help you shed a little light on our issue up there. I'll be honest with you, I never thought in my entire life growing up in Ainsworth, Nebraska, I'd ever be sitting here in front of people saying, I got to try and protect our water resource up there, because I never thought in a million years that anyone would ever say, well, you know what? Up there in Ainsworth, they're going to hurt that resource because it's just not possible with the geography of the area and the Sandhills, we can't put enough center pivots up there to ever hurt that resource. There's not enough ground that lays flat enough to make it happen. And we have such a huge vast amount of recharge--it's instantaneous recharge almost. I mean, we're just finally getting back to water table levels that were considered normal in the 1930s, '40s, and '50s. Because of excess rainfall through the '80s and '90s, we had areas where the state of Nebraska had to go in and raise the highways 10 to 15 feet just so we could maintain traffic. South of Ainsworth, south of Bassett, I mean, it's a whole different world up there than it is down here in this part of the state. I guess I'd open it up to questions at that point. [LB594]

SENATOR LOUDEN: Questions for Tonny? Senator Christensen. [LB594]

SENATOR CHRISTENSEN: Tonny, I just say thank you because we don't always

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understand every area and I do appreciate that. [LB594]

SENATOR LOUDEN: Senator Fischer. [LB594]

SENATOR FISCHER: Thank you, Chairman Louden. Thank you, Mr. Beck, for driving down today. We're neighbors and everybody down here knows that I'm a little different. But it's nice when you come down (laughter) and say on the record that we're a little different up there, so thank you very much. [LB594]

TONNY BECK: Well, "Sandhillier" charm as my father would say. [LB594]

SENATOR FISCHER: There we go. I'll use that then. Thank you. [LB594]

SENATOR LOUDEN: We know you are different up there. (Laughter) Senator Hudkins. [LB594]

SENATOR HUDKINS: Mr. Beck, thank you for being here. I am sorry I missed so much of the earlier testimony but I had two bills to introduce in another committee. And someone might have already answered this question and if so, just tell me again anyway. [LB594]

TONNY BECK: I will try. [LB594]

SENATOR HUDKINS: Part of the bill is really a retroactive act as I read that. So if you have applied for a new well after January 1. Let's say it was January 2... [LB594]

TONNY BECK: We have, ma'am. [LB594]

SENATOR HUDKINS: Okay. But those won't be granted before 2009. Someone has maybe already gone to the bank, arranged financing, gone to an irrigation company, arranged to buy a new pivot. What's that going to do their cash flow, to their bottom line, or anything else that you can think of? [LB594]

TONNY BECK: I can tell you this. With the customers that I have and the permits that we have in place, the attitude is that they will see you in court. They intend to drill those wells, they have signed permits from those NRDs. And their attitude is they have a right to construct that well according to state law and they intend to do so. And if this bill is passed and it goes retroactive back to January 1, myself personally, when I get done today, I leave for Ainsworth, and we're going to start drilling in the morning. And I hope to have all of the permits drilled before you ever get to that stage. I don't know whether we can get that done but that's what we're going to try and get done because we have a lot of customers that are very concerned. And it's not a...you have to understand, we're looking at...I've got customers that have had plans put in place for each year for the next

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four or five years. They've got helper wells that they want to do. They want to expand a feedlot, they want to do all these different things and now because of LB594, there's fear in the air and they are all pulling the trigger. And that's, unfortunately, I've got a boom this spring and the reality is I'm going to have nothing next spring, you know, I mean, and probably the year after that. There is...you know, it's disconcerting that this is how these things work out. I don't like it, but the reality is I have customers out there that have big plans and those plans involve water, and we are going to try and fulfill that need for them as best we can. [LB594]

SENATOR HUDKINS: Which NRD are you in? [LB594]

TONNY BECK: I live in the Middle Niobrara; we work in the Middle Niobrara, the Upper Elkhorn, the Lower Niobrara, the Upper Loup, and in Tripp, Todd, and a couple of other counties in South Dakota. [LB594]

SENATOR HUDKINS: Okay. Are those areas in Nebraska fully appropriated? [LB594]

TONNY BECK: Absolutely not. [LB594]

SENATOR HUDKINS: Thank you. [LB594]

TONNY BECK: And the other thing that I would add to that is they're not even close. [LB594]

SENATOR HUDKINS: Thank you. [LB594]

TONNY BECK: The only issue that we have as far as appropriation is with surface water issues in our basin with Game and Parks, National Park Service, going after some in-stream flow issues. There is the potential that we will become fully appropriated depending on where those in-stream flow numbers come in. It's not because we don't have any groundwater, but it's because there may end up being enough people sitting there with their name on the list of what of surface water. And then we'll end up being fully appropriated based off of surface water but not off of our groundwater consumption. [LB594]

SENATOR HUDKINS: Thank you. [LB594]

SENATOR LOUDEN: Any other questions? I have one, Tonny. You're a well driller, how deep are you drilling those wells? [LB594]

TONNY BECK: It depends. In Brown County for example, the deep end of the aquifer in our area, we never go to. We are sitting on top of 600-plus feet of saturated thickness in the southern Brown County and never ever have drilled a well down in that

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neighborhood deeper than 300 feet. [LB594]

SENATOR LOUDEN: Okay, you're going 300 feet? [LB594]

TONNY BECK: Typically, yes. [LB594]

SENATOR LOUDEN: Okay. And what about oh, Todd County, over there towards across into South Dakota, how deep do you go over there in South Dakota? [LB594]

TONNY BECK: Up in Todd County most of that county doesn't have an ounce of water in it but the few spots where there is irrigation potential, those wells are typically in the 240-foot range to 200-foot range. [LB594]

SENATOR LOUDEN: Now is that more glacial pockets you drill for up there? Or are you still in the Ogallala aquifer? [LB594]

TONNY BECK: It's a finger of the Ogallala aquifer, it's a very northern tip of the Ogallala or the High Plains Aquifer I guess would be a better term. [LB594]

SENATOR LOUDEN: And what are most of these wells powered by? Electricity, motors or what? [LB594]

TONNY BECK: A combination. Typically they're diesels or electrics, it depends on the REA. Cherry County is primarily electric. Todd and Tripp Counties are also primarily electric because they bring electricity off of the South Dakota-Missouri River electrical grid. In Brown and Rock Counties it's a 50-50 mix. It just depends on whether you are close to an REA or if you're not so close to the...closest to the three-phase line. [LB594]

SENATOR LOUDEN: And what crops do they usually grow under that? [LB594]

TONNY BECK: Primary crops are corn, soybeans as far as row crops go; we have a lot of alfalfa production at ranch level as long with other feeds for ranchers...millet, sudex, crops like that. And a lot of, and also the other thing we've seen is the past ten years, is a lot of irrigated pasture. A lot of our ranchers have found out that they weren't very good farmers but they are awful good ranchers. And if they put a permanent grass under there and they water it in a timely manner, that they get a lot better return for their money than when they did when they were trying to be a farmer. [LB594]

SENATOR LOUDEN: Yeah, I've seen that going...that's another discussion. When you're in there, like south of Ainsworth or south of Long Pine which is mostly Sandhills, are you drilling many wells in that area? [LB594]

TONNY BECK: No. No, Sir. Absolutely not. There is discussion in our Middle Niobrara

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NRD district about putting a class of requirement on highly erodible soils where they won't be able to develop in those situations without having FSA approval which means they're going to have to have best management practices which are going to include cover. If they are doing row crops there's going to have to be winter cover. Typically in those applications, what they are going to end up doing is they need a pivot out there for feed. Because they're going to be growing feed, those feed crops that are going to be out there are going to provide year-round cover and keep from being...we're not going to have the blowout CRP days of south Rock County we had once before. [LB594]

SENATOR LOUDEN: Then where are you drilling these wells so they can graze cattle behind them? [LB594]

TONNY BECK: Where at? [LB594]

SENATOR LOUDEN: Yeah. [LB594]

TONNY BECK: Oh, we've drilled them in Keya Paha County, we've drilled them in Blaine County, we've drilled them in Brown County, we've done it in Rock County. I haven't done any in Holt County but I think that's just because there's more row crop down there and honestly, most of the area we work in is north of Atkinson. It's flat, very high productive soils and those guys down there are growing corn because that's what works for them. [LB594]

SENATOR LOUDEN: Okay, thank you. Any other questions? Seeing none, thank you for testifying. [LB594]

TONNY BECK: Thank you for your time. [LB594]

STAN STAAB: (Exhibits 40, 41) I do have some handouts for you folks. And I know there's plenty here. Good afternoon, Senator Louden, members of the committee. I'll try to be as brief as I can with my testimony, I know it's been a long day for everyone. Some of us have come a distance so appreciate the opportunity to come before you and give you our message. My name is Stan Staab, S-t-a-n S-t-a-a-b. I'm general manager of the Lower Elkhorn Natural Resources District based in Norfolk. I do represent the board of directors today. We do represent parts of all 15 counties in northeast Nebraska. I do wish to provide testimony in regard to L594. We believe that statewide suspension of high-capacity wells does have merit if justified by supporting scientific data that indicates groundwater levels are declining. However, this is not the case across the entire state. We do certainly agree that surface groundwater depletions exist in southwest, western, and central Nebraska as evidenced by ten NRDs who have already imposed some type of well drilling stay or moratorium connected to LB962 or some local NRD board decision. In addition, the Nemaha NRD in the southeast has

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imposed a moratorium because of declining or shallow aquifers. The remaining 12 NRDs as you saw in your map, do not have these type of restrictions because local aquifer conditions do not justify those actions. I think you've heard that discussion earlier. As proposed, LB594's temporary suspension of well drilling for two years also declares that new well permits would not be issued after January 1, 2007. Our district alone is, we have 49 new permits to date since January 1. If the bill becomes law any new wells drilled since January 1, 2007, would automatically become illegal. How this will be addressed is a serious concern for our board of directors and I would just let you read...I talk about LB962, how important it is that we work with that law. We're also part of the ELM study, we're part of the study with several other NRDs in the eastern part of the state, the ENWRA study, we've never worked more closely together than we are at this point in time and I've been with the districts for 28 years with two NRDs. I see a partnership between the districts that I'm really proud of it because we've come along ways with this; we have a long ways to go. Our district is working every day to improve proactive status in groundwater management. We have some actions that...we'll show you this, we have a 50-50 cost share meter program in place for all new high capacity wells. We have another generous voluntary cost share program that would place one flow meter in each of our 135 townships across the district. We have our static water pumping levels and that's attached to that handout that you have there. It does illustrate that groundwater levels are generally not declining over a period of 30 years. As we see the wet and dry cycle fall, so goes the static water levels in our wells. We have a groundwater management plan since '86 and we revised it in '96 and we are working with this plan. It has triggers in it. Based on our trigger points two years out of three, regulatory actions will be imposed including moratoriums on drilling if the groundwater levels are falling below a certain point, so we are very cognizant of that. It goes on and talks about my comment that I made working with the studies. We are not designated at this time in the Lower Elkhorn Basin. We are in the belief that placing a temporary stay on irrigation, well drilling, and surface water rights in the 12 NRDs is unjustified and not based upon any supporting sound science that we are aware of. So, and we would prefer to work with DNR on LB962 as it evolves. That's our position of our board. And I have some handouts for showing the graph of the Elkhorn River, the gauge at Waterloo, the trend of course, over the years is up. We have annual discharge at Logan Creek at Ewing, that's another up trend, and so is the annual discharge in Maple Creek in Nickerson, an up trend. The maps that I included on static water levels, what that represents is there's a graph of each of the five counties that have the most land in our district. Generally speaking, groundwater levels in our district show a slight downward trend over the past five years but the graphs show groundwater levels for the whole period of record for these wells. Looking at the pattern for the past 30 years, the groundwater levels generally may go down for a few years, then will go back up. The pattern tends to repeat as you can see. Those lines across there represent wells that were selected in each of the counties and you can see by the measurements what I'm talking about. And this would represent what's going on in our district. We also have what's hardly ever talked about and literally hundreds of miles, I don't know how many,

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hundreds and hundreds of miles of tile drains in our district. Those tile drains are used to get rid of water. People have water in their fields; it's excess water, they're draining it out. So we have a problem with that. We were asked to cost share on tile drain years ago. We did not do that because it's such a massive program, especially in the wet '80s and '90s. So this is--what I would like to convey to you today from my testimony. I thank you for having the opportunity to come before you. [LB594]

SENATOR LOUDEN: Okay, any questions for Stan? Seeing none, thank you for testifying. [LB594]

STAN STAAB: Thank you, thank you very much. [LB594]

ALLAN ORTMEIER: Hello. My name is Allan Ortmeier, A-l-l-a-n O-r-t-m-e-i-e-r. Well you've all heard from some fairly important people today. I come to you today as a representative of a small family farm. I'm asking you to please stop this bill; do not cap our income. We are not the devil out in the country. We do not pump if it's raining. We do not drill wells unless we can afford to. Water is not free to us either. If you don't believe that, price a thousand gallons of diesel fuel or get an electric quote if you have to run electric irrigation. We're just doing the best we can to produce what we can. That's all. [LB594]

SENATOR LOUDEN: Questions for Allan? Seeing none, thank you for coming and testifying, Allan. [LB594]

TOMMY HIGGINS: Good evening, Senators. My name is Tommy Higgins, T-o-m-m-y H-i-g-g-i-n-s. I am a member of the Lower Niobrara NRD board. I am here to testify on my own behalf since our manager got through testifying. And I will read this so it's short and quick. I feel that the groundwater levels have not declined in all of our NRD. In fact some wells show an increase and the river, which is the Niobrara River, has increased in flows below the Cherry County line. If a depletion problem shows it is necessary to put more moratoriums or sanctions, then let the NRDs put these on. They have been elected by the local people to do their job and after all, we have already enacted groundwater plans and from the year 2000 to 2006 there was only approximately ten CFS allocated from the Niobrara River. If we stop the young people in our area or statewide from trying to advance their livelihoods through irrigation, then let's stop watering the lawns, the parks, and the golf courses and the ethanol plants along with the irrigation wells for the young people. And just look around through the audience which most is gone by now, but how many young farmers did you see here today? We got to keep them here and if irrigation will help, then let's do that. And I don't feel that one solution can solve the problem statewide. [LB594]

SENATOR LOUDEN: Are you done? Ready for questions? [LB594]

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THOMAS HIGGINS: Yep. [LB594]

SENATOR LOUDEN: Questions for Tommy? I guess you convinced them, Tommy. (Laughter) Thank you for testifying. Go ahead, Sir. [LB594]

CLAYTON GOEKE: I am Clayton Goeke from Atkinson, Nebraska. G-o-e-k-e. Clayton, C-l-a-y-t-o-n. I guess I started irrigating in about '61, living on the place where my grandfather homesteaded and we got a nice little creek that runs through there and that creek runs just as good today as I remembered as a kid. And my kids still swim in it or did; they're grown up now and got kids. But I'm in the Lower Niobrara, the same as the guys that was Tommy and Duane, and they've done an excellent job. We don't need anything else in our area at this time to do the water. They tell me it went down a foot and a half to two foot, our wells, last year and by spring they'll be back up again and we just go right at it again. I guess in behalf of and in defense of ethanol, I heard somebody say they're going to be growing twice as much corn, consequently maybe take twice as much water, that's not so. We'll probably grow 10 to 15 percent more corn next year but on my farm where we got 11 quarters instead of 3 quarters of corn, we'll probably have 6 quarters of corn. But we will be using the same water that we would have used on beans or wheat. Wheat takes about as much water as corn and we grow wheat. And I guess I don't have a lot else to say, I just probably am one of the oldest guys here. I don't know if that's a good deal or not (laughter). If you got any questions, I... [LB594]

SENATOR LOUDEN: Any questions for Clayton? Senator Wallman. [LB594]

SENATOR WALLMAN: Thank you, Chairman Louden. Hey, Clayton, love your bibs. My wife won't let me wear them in here but I'm a farmer (laughter) and thanks for testifying. And hang in there. [LB594]

CLAYTON GOEKE: Okay. (Laughter) [LB594]

SENATOR LOUDEN: Senator Fischer. [LB594]

SENATOR FISCHER: Thank you, Chairman Louden. Thank you, Mr. Goeke, for coming down today. You're leaving me already? [LB594]

MIKE ALLEN: (Exhibit 42) Two minutes and we're out of here. My name is Mike Allen, M-i-k-e A-l-l-e-n. I live at 10490 S. Baltimore Avenue in Ayr, Nebraska. I'm testifying on my own behalf as a concerned citizen. I want to thank Chairman Louden and the members of the Natural Resources Committee for the opportunity to visit about LB594 this evening, now. My interest and involvement in Nebraska water is extensive. It stems from my family history of four generations of Nebraska farm families. My professional career in agribusiness supporting irrigated agriculture and the Little Blue River bisects the middle of my farm and I can tell you I value the quality of life that its flows create for

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my family every bit as much as I value how it sustains my livelihood and my existence there. So I am a stakeholder of Nebraska's water resources on many fronts. This interest has led me to actually participate in a number of water policy stakeholder organizations including the board of directors of the Nebraska Water Resources Association, the American Groundwater Trust, the manufacturer's representative to the Water Well Standards and Contracting Licensing Board, and the negotiated rule-making committee for LB962. My understanding of our water resources has evolved immensely over the past eight years. Throughout this growing process, the core value that has guided my actions is a dedication to both preservation of Nebraska's natural resources and providing access to these resources for the beneficial use to all Nebraskans. I'm going to quote the following words from my own testimony on LB962 back in 2004, "I strongly support the principles of formulating a more effective integrated management plan between surface water and groundwater within specific hydrologic areas. I also support additional funding for scientific research to ensure that integrated management decisions are based on sound science. Additionally, I continue to support the concept that the public interests will best be served if the accountability and responsibility for these management decisions resides with our Natural Resources Districts to ensure that best management practices are employed as a result of sound science." Integrated management plan, sound science, public interest, accountability, and responsibility, these are all cornerstones of good public policy decision-making. LB594 is lacking in all of these basic tenets. Therefore I am here to testify in opposition to its advancement. Just two legislative sessions ago, a tremendous amount of time, effort, and money was invested by the Water Policy Task Force, the Department of Natural Resources, our natural resources districts, and a number of special interest stakeholder groups, to form a consensus for managing our water resources. This effort culminated in LB962. This legislation bases decision-making on sound science, basin by basin, evaluated annually. Most recently, in accordance with this law, the Department of Natural Resources just completed and this is a quote from LB962, "an evaluation of the expected long-term availability of water supplies for both existing and new uses in each of the state's basins." This is management by science. LB594 would dismiss this scientific approach to management in lieu of a strategy that says, hey, we're in a drought so let's deny access to our resources. This is management by emotion. We have all invested too much time and effort in a scientific approach to water management in Nebraska, to abandon our ideals for a bill that offers no solutions but simply denies access. Thank you very much. [LB594]

SENATOR LOUDEN: Questions for Mike? Seeing none, thank you for testifying. Next testifier. Are you the last one? [LB594]

PAUL KOCH: I think so. [LB594]

SENATOR LOUDEN: I was going to say our on-deck chair is empty, so... [LB594]

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PAUL KOCH: My name is Paul Koch, P-a-u-l K-o-c-h and I live up in the Lewis and Clark NRD District. I am a fourth generation farmer. My grandfather homesteaded in Cedar County. In 1978 I acquired my first irrigated quarter of land and at that time we got in with the NRD and I have data since 1978 from our wells that I either own or operate and we have an increase in water level from 7 to 11 feet on those wells. And it goes in ten-year increments that I have on a graph here that shows where the wells are. I didn't bring extra handouts for this but I'm here to say that a blanket approach to somebody that's losing feet in water level and us that's gaining up to 12 feet in water level, is kind of a...what one guy said is a one solution doesn't fit all. And the other thing is we have a pump station that was put in up by Vermillion that's going to pump 20,000 gallons of water a minute out of the Missouri River to South Dakota. Now where we grandfather...where we homesteaded up along the river, I think that pump station is in Nebraska, so do we want to fight with South Dakota over this 20,000 gallon a minute pump station on a grandfather clause? I talked to Senator Dierks and he wasn't even aware that this pump station went in up there and they're planning on, you know, they're in the building stages of this thing and they are going to pipe water 337 miles up into South Dakota. And my main concern is, are we setting up for a fight with them too like we are with Kansas over water? And that's all I basically have to say. [LB594]

SENATOR LOUDEN: Questions? Where did you say that this pump station was? [LB594]

PAUL KOCH: It's southeast of Vermillion, right along the Missouri River. I got some printout here and I visited with Senator Dubas from the 31st (sic) District and this is what I got from them. [LB594]

SENATOR LOUDEN: Now are they pumping out of the Missouri River or which river? [LB594]

PAUL KOCH: Missouri River. I seen it go in because I farm in four counties in Nebraska and one county in South Dakota and I crossed it one day and I started asking questions and I got very few answers. I came down here last week and I came all the way from Cedar County and got here and then they said no deal, you know? (Laugh) [LB594]

SENATOR LOUDEN: They...yeah, did you get... [LB594]

PAUL KOCH: I was sitting in Cap Dierks's office... [LB594]

SENATOR LOUDEN: ...home? [LB594]

PAUL KOCH: ...and he said, well, I guess we ain't having it and I said, okay, if I can get here from 180 miles away, I don't, you know...that's a different issue. But I said, you know, he didn't know about this and I'm like, and in a sense of fairness to the people in

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the water resources committee, I mean, you got to know what's going across the state. And since this is in my area where I live and reside and operate a business, I think it's important that you know about it. [LB594]

SENATOR LOUDEN: Where are they pumping the water to then? How far? [LB594]

PAUL KOCH: It's going up, I got a map here but it's not very good. They faxed it to me because I finally kept harassing them for it. It's going up to Sioux Falls, South Dakota, and Worthington, Minnesota. [LB594]

SENATOR LOUDEN: What are they doing with it up there? [LB594]

PAUL KOCH: It's primarily residential use. [LB594]

SENATOR LOUDEN: Okay, thank you. Any other questions? Seeing none, thank you for testifying. [LB594]

PAUL KOCH: Thank you. [LB594]

JEFF BETTENHAUSEN: I hope maybe I'm the last one. My name is Jeff Bettenhausen, I work for Nebraska Irrigation, Incorporated. We manufacture... [LB594]

SENATOR LOUDEN: Spell your name if you would. [LB594]

JEFF BETTENHAUSEN: Oh, B-e-t-t-e-n-h-a-u-s-e-n. I work for Nebraska Irrigation Incorporated, in Columbus. We manufacture and distribute components and design sprinkler packages for center pivot irrigation systems, and supply those components to irrigation dealers throughout the state and also outside of the state. We oppose this bill and we think that the local NRDs should remain in control and I just wanted to reference our opposition of this bill today. That's it. [LB594]

SENATOR LOUDEN: Okay. Any questions? Seeing none, thank you. [LB594]

JEFF BETTENHAUSEN: Could I add one more thing? [LB594]

SENATOR LOUDEN: Go ahead. [LB594]

JEFF BETTENHAUSEN: Sorry. From my personal perspective in terms of irrigation, the focus should be on efficiencies and most growers, there was a gentleman that mentioned earlier, that with fuel and energy costs where they are, that tends to dictate how much water they apply. The guys that are overusing the water, the growers are, that are overusing the water, they understand they can't do it and they know how to control their resources and they understand if they don't use their resources wisely, they

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will not be in business next year. So that's all I have. [LB594]

SENATOR LOUDEN: Okay. [LB594]

JEFF BETTENHAUSEN: Thank you. [LB594]

SENATOR LOUDEN: Did you want to take another run at it? (Laughter) [LB594]

JEFF BETTENHAUSEN: No. I'll...redo take three here, take three...thank you.
(Laughter) [LB594]

SENATOR LOUDEN: Okay, thanks for testifying. Anymore testifiers as opponents to LB594? Anyone wishing to testify in the neutral to LB594? If not, Senator Kopplin, you may close. [LB594]

SENATOR KOPPLIN: Senator Louden, members of the committee, thank you for your time today. LB594 asks for a two-year moratorium on new well drilling. We chose all the state because if we had tried to pick out spots based on soil and availability, we would have had nothing but finger pointing and no discussion. So we did that for a purpose. Apparently I'm mistaken, I'll have to say that. Nebraska does not have a water problem. (Laughter) You've heard much testimony today, a lot of it from the NRDs. They are hardworking groups. I am glad they have the problem solved and are working well together to complete the job they need to do. We also need to...got lots of e-mails and phone calls on both sides of the issue. Probably you only on one, but me on both. Some of these responders truly believe their data is correct. Others responded out of greed. Still others understood the issues but just wanted the problem to go away. But you, Senators, do not have that option. I don't believe Nebraska can sustain the pace at which we're drilling wells. Now you can slow it down while we solve the problem or you can wait and be faced with a decision of a permanent moratorium on irrigation wells. You'll have to make those decisions. Not for us, it's too late, but for all those little Nebraskans who are going to follow us. I urge you to consider LB594 carefully. Thank you. [LB594]

SENATOR LOUDEN: Questions for Senator Kopplin? Thank you, Senator. And with that we'll close the hearing on LB594. Thank you all for being here. (Exhibits 43, 44) [LB594]

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Disposition of Bills:

LB493 - Held in committee.
LB594 - Indefinitely postponed.
LB704 - Indefinitely postponed.

Chairperson

Committee Clerk