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Natural Resources Committee
September 23, 2015

[LR272]

The Committee on Natural Resources met at 9:00 a.m. on Wednesday, September 23, 2015, in Valentine, Nebraska, for the purpose of conducting a public hearing on LR272. Senators present: Ken Schilz, Chairperson; Curt Friesen, Vice Chairperson; Brett Lindstrom; John McCollister; and David Schnoor. Senators absent: Dan Hughes; Jerry Johnson; and Rick Kolowski.

SENATOR SCHILZ: Well, good morning, everyone. If you'd go ahead and take your seats we will go ahead and get started. It's 9:00. I would like to welcome everyone to the Natural Resources Committee interim hearing here in Valentine. My name is Senator Ken Schilz. I'm from Ogallala. I represent the 47th District and I am the Chair of the Natural Resources Committee. We have a number of committee members and other senators with us today. And for lack of me trying to remember and get it all straight, I will just let each one of them introduce themselves. And we'll start out with your home senator here, Senator Davis.

SENATOR DAVIS: Senator Al Davis, District 43, of course, from Hyannis.

SENATOR LINDSTROM: Senator Brett Lindstrom, District 18, northwest Omaha.

SENATOR FRIESEN: Curt Friesen, District 34, which is Hamilton, Merrick, Nance, and part of Hall Counties.

SENATOR MCCOLLISTER: John McCollister, District 20, which is central Omaha.

SENATOR SCHNOOR: Dave Schnoor. I represent District 15, which is Dodge County. And I live west of Scribner.

SENATOR HAAR: Ken Haar. I'm from District 21, which is northwest Lincoln and northwest Lancaster county.

SENATOR SCHILZ: Thank you. And I'd also like to introduce at this time to my right, Barb Koehlmoos who is the committee clerk for the Natural Resources Committee. And to my

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immediate left is Laurie Lage; she is the legal counsel for the committee as well. Today we have one hearing on the agenda: LR272 introduced by Senator Haar. And if you're planning on testifying, there should be some green sheets at the back of the room. Please pick one of those up and then go ahead and, if you're going to testify, fill that out completely. Please print. Try to make it as legible as possible. And then if you don't want to testify but you'd like to have your name put in the record, there is also a sign-in sheet back there to get your name on part of the hearing. And so please fill out the sign-in sheet in its entirety before you testify and then give it Barb over here as you come up to the table. And then this will help us make sure that you get entered into the record properly. You can also submit comments and we'll take those as well in writing. And if you have handouts to hand out, we'd like you to have 12 copies. And if you don't, don't worry about that. Just give it to Barb and she'll make sure that all of the committee members get that. And when you do come up to testify, speak clearly. We're going to have to speak a little louder today because we don't have any amplification. We don't have any microphones or anything. So if anybody...as we go along, if somebody can't hear just let me know and we'll try to speak up a little bit. But when you do come up here please spell your first and last name so we can get that on the record as well and so that will make that flow smoothly. At this time make sure your cell phones are off or on silent. And if you do need to take a call or if you have to have a conversation, especially since we don't have any amplification, please take that into the hallway or into the next room. That will be great. We don't allow any displays of support or opposition for any of the issues that we will discuss today. So no clapping, no cheering, no yelling out, or anything like that. It would be much appreciated and if it does happen, we will deal with that then. But we don't want any of that. We want to make sure that the testifiers have the ability to say what they need to say and not be interrupted. We will use the light system today. And we will give everyone five minutes and then questions from the committee if there are any. And so what will happen is the green light will go on for four minutes; then the yellow will turn on for a minute; and then the red light turns on. And when the red light turns on if you're in the middle of a thought or a paragraph, you can go ahead and finish that and then sum up and we'll get this moving along pretty quick. Other than that, I think we're ready to go. And, Senator Haar, you are welcome to open up on LR...

_____: Just got a quick question.

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SENATOR SCHILZ: Excuse me. Yes.

_____ : Is there going to be any written comment, and if so, what's the time limit period?

SENATOR SCHILZ: Here's how that...like I said, you can write comments and you can send them to the Natural Resources Committee at any time here within the next couple weeks. There's no set time frame. So any time you send something in, if it pertains to this it will go into that file and go on that record.

_____ : Thank you.

SENATOR SCHILZ: Yep. Thank you. Senator Haar. It's all yours.

SENATOR HAAR: (Exhibit 1) Thank you. Thank you, Senator Schilz and members of the Natural Resources Committee, and also Senator Davis for having me here. I'm Senator Ken Haar, H-a-a-r, the Haar with two A's. I'm pleased to be here in Valentine talking about my interim study resolution about the Niobrara River, one of Nebraska's treasures. And I know we're competing with the Pope this morning, (laugh) so we'll try and be brief. [LR272]

SENATOR SCHILZ: You got no chance, Ken. [LR272]

SENATOR HAAR: (Laugh) Okay. I introduced LR272 to continue the discussion the Legislature started this spring on the Niobrara Scenic River. As members of this committee know, two bills about the scenic river were introduced this session. Your committee advanced and the Legislature passed Senator Al Davis' bill, LB310 that made the changes requested by the council. But that bill and the companion bill, LB622 introduced by Senator Tyson Larson addressing the boundaries used by the Niobrara Council started a discussion I believe we should continue. I believe that one important role of the Legislature is to ensure Nebraska's political subdivisions are using the authority the Legislature has given them in a way that benefits all of Nebraska's citizens. I think it's important to use the discussion this morning to determine if that's happening and to determine if there are things the Legislature can do to make even more certain that it's

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happening on the Niobrara River. The Niobrara Council is the Legislature's creation. The council's powers, members, and authority are all set forward in our state statutes. The 16-member council was created by the Legislature to work as a management partner with the National Park Service. And I'm going to talk about that a little bit more later, but partnership coordination keeps coming up again and again. This partnership is laid out in the Park Service's Niobrara Scenic River General Management Plan. And I've given you the first 20 or so pages; it goes on for almost 200 pages. But I'll talk a little bit about that later. The council's authority to act comes from the Niobrara Scenic River Act, a law passed by the Nebraska Legislature in 2000. I'd like to use the testimony today and any subsequent report generated from LR272 to explore how we as the Legislature can better support the council in their work to be an effective local partner on the 76 mile scenic river. Nebraska's Niobrara Scenic River Act currently states that the purpose of the act is to ensure the continuation of the cooperative management, cooperative management relationship between the Niobrara Council and the National Park Service so that local participation and control over this valuable resource can be maintained. I think a local voice is important and I want to make sure that we are all using that voice well for the people of these four counties and for all of the Nebraskans who consider the Niobrara River our river. There was some testimony on the two bills this session about whether the Park Service may find a new partner or choose to work with no partner at all. I think that's something we want to carefully explore--more on that a little later. The Legislature set the Niobrara Council to include important voices from impacted landowners, business owners whose businesses rely on the river, and NRDs who manage the water resources. If we lose our local partnership, we risk losing the voice we have given to these important groups. I'm looking forward to hearing from interested persons today on the current work the council is doing and the work the council has been able to do in the past. Most importantly, I think we should be considering the work the council may be able to do in the future. Does the Governor's appointment process for the council impact the work? Should there be certain qualifications for membership on the council? Does the fact that our state statutes are using a definition of the scenic river that's no longer current impact the work? Are there any other issues that need to be addressed? There are those here planning to testify. I look forward to the questions we can all be asking to determine the answer to these and other questions. It was also my understanding that a representative from the National Park Service is also in attendance today. And while he will not give any formal testimony, he will be available to answer questions. Then I'd like to take a few minutes to go over the final general

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management plan, the document that I handed out to you. And again, I just ran off a few pages because it goes on to several hundred pages. But if you open that, what's really important here, it starts off by talking the alternatives that the National Park Service came up with. First of all, there was Alternative A which meant the Park Service would do nothing. It would just let things go as they are. Alternative B, which is called the preferred alternative in this plan, develops a vision for cooperative management--here we see that term again: cooperative management--wherein the National Park Service would provide stewardship through an array of federal, state, and local partnerships to achieve management outcomes. And then Alternative C develops a vision of independent national park management of the scenic river. I also included just the contents and if you...because it's a very interesting document if you care to go through there. There are a lot of maps and a lot more detail, especially on the alternatives. So page 1, the Niobrara, A National Treasure, as we all realize. And then page 3, here's where I want to spend a little bit of time. Here's the Legislative background. Public Law 102-50, the Niobrara Scenic River Designation Act of 1991 that was passed by Congress to designate certain parts of the Niobrara River as a unit of the National Wild and Scenic River System. Then if you go down to the last paragraph in that column: The 1991 Niobrara Act stated that the Scenic River would be administered by the Secretary of the Interior. It directed that the segment of designated river would continue to be managed by the Secretary through the director of the U.S. Fish and Wildlife Service, and that general planning and operation would be given to the National Park Service. And I could be corrected on this, but basically the Niobrara Scenic River is a national park. The big difference is that it's private ownership along the river. And then the next paragraph: The Wild and Scenic Rivers Act directs the administering agency to prepare a management plan and establish final boundaries for protection of the river's outstandingly remarkable values. And the management plan is what I talked about earlier. Plan A is Park Service would do nothing; plan B, there would be a cooperation...cooperative managements; and part C was that the National Park System would just do it all itself. And under the act, the boundary of one-quarter mile from the ordinary high-water mark on both sides of the river is imposed until a final boundary is established. Page 4, then they talk...preferred alternative would be that that option c, which is a cooperative agreement with the National Park Service and some local agency. And to begin with, that was, my understanding and according to this, was with the county commissioners of the counties. But then if you look, in March 1998, there were some lawsuits filed. And in fact, a federal judge ruled in Washington that the National Park Service

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had unlawfully delegated its management responsibility on the Niobrara. A federal ruled it. And then later in a separate lengthy litigation, an Omaha businessman challenged the manner in which the Park Service had determined the boundary, that is the quarter-mile on each side. And in a ruling from the Eighth Circuit Court of Appeals, the Court ordered the service to redraw the scenic river boundaries. And I'm not going to go over this next part, but it was six-year planning process that occurred then to comply with the Eighth Circuit Court of Appeals. And then finally what they came up with is what the Park Service now considers to be the boundaries. And then if you'll take time later, because it's quite interesting, it goes through that process of planning for the boundaries. And it went on and on and involved many, many groups. On page 9 it does mention the NRDs. It mentioned Game and Parks and so on. And I'm sure that there was some things that folks didn't agree one, but finally the National Park Service came up with their current boundaries. And then finally I want to relate a brief story. I don't know, in the late '90s it was...I decided it would be kind of interesting to be trained as a mediator for small claims court in Lancaster County. So I got the training and then for a couple years I would go one afternoon a week and I would mediate the small claims court. And the first thing I would say to people is, look, I've been given this authority. We can either come to an agreement here between us, two parties, or you can go to the judge and he'll tell you what to do. And the most interesting case: There were three college students who had been best of friends in high school. And when they came to my small claims court, they were locking doors and locking cupboards and putting chains on their refrigerator doors. And they went to the judge. And I don't know what the judge finally told them. But the final authority was with the judge if we couldn't come to an agreement. And I think when we're talking about power relationships...and that's part of this whole issue is...and it's...I know it gets sticky. But the power relationship is that the scenic river is not going to go away. It's administered by the National Park Service and they have selected plan B which is to cooperate with a local agency. And the Legislature has agreed, through our laws, to create the council. And so I think we have to remember that there are options A, B, and C and that right now the decision by those who make that final authority is option B. So with that, I'd be happy to answer any questions. [LR272]

SENATOR SCHILZ: Thank you, Senator Haar. Any questions for Senator Haar? Seeing none, thank you for your opening. [LR272]

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SENATOR HAAR: You bet. [LR272]

SENATOR SCHILZ: At this time we will...I would like to call up the first couple testifiers, Mr. Warren Arganbright, please. [LR272]

_____ : Good morning. [LR272]

WARREN ARGANBRIGHT: (Exhibit 2) Mr. Chairman and members of the committee, thank you for coming to Valentine. Appreciate the opportunity to meet with you. My name is Warren Arganbright, A-r-g-a-n-b-r-i-g-h-t. I'm an attorney here in Valentine. I represent the Niobrara Council and have represented it for some time now. And basically the only thing I want to do at this point is to provide to each of you an executive summary that we've prepared, indicate some issues and some activities of the council over the years. It talks a little bit about legislative history so you have some perspective there. And Kalli, the executive director, is going to hand those out. But the other issues that are addressed are--and these will be addressed in a little more detail later on--are the accomplishments of the council, the financial issues that the council has faced over the years and continues to face. And beyond that, I really don't have anything except to ask if you have, at the conclusion today, any specific questions. The council is in full meeting today; we've given notice and have called the meeting to order. There are about nine or ten council representatives here today. And in the event that you have questions we'd certainly be happy to address any particular issues you might have. That being said then the principal purpose for my presentation today is just to present right now the executive summary and the attachments. So if you have an opportunity to look those over during this hearing process, have any other questions, we'd be happy to address those at a later time. [LR272]

SENATOR SCHILZ: Very good. Is there any questions for Mr. Arganbright? Seeing none, and is that...(inaudible) Kalli (inaudible) whoops. [LR272]

_____ : Sorry. [LR272]

SENATOR SCHILZ: No problem. Does Kalli want to testify as well or was that a team effort there? [LR272]

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WARREN ARGANBRIGHT: No, she'll be testifying. I think we'd just as soon defer to a little later time. [LR272]

SENATOR SCHILZ: Okay. [LR272]

WARREN ARGANBRIGHT: Address those issues once everybody has had a chance to make their presentations. [LR272]

SENATOR SCHILZ: Okay. And then just make sure that Barb gets your green sheet and you'll be good to go. [LR272]

WARREN ARGANBRIGHT: Thank you. [LR272]

SENATOR SCHILZ: Thank you very much. At this point we will start taking testimony. Anyone that wants to speak, come on forward and we'll start going. Don't be afraid. Come on up. Yeah. [LR272]

MONTE FRAUEN: Did you want the sheet right now? [LR272]

SENATOR SCHILZ: Just hand it to Barb, yeah, if you would. [LR272]

MONTE FRAUEN: Thank you. First of all, I would like to say that I very much appreciate the opportunity to speak in front of the Legislature. I've never done that. I'm from Valentine and driving to Lincoln, you know, just out of my way. But anyway, I'm representing myself. I'm a landowner in Keya Paha County, a rancher and... [LR272]

SENATOR SCHILZ: Sir, would you mind stating and spelling your name. [LR272]

MONTE FRAUEN: I'm sorry. [LR272]

SENATOR SCHILZ: You're fine. No problem. [LR272]

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MONTE FRAUEN: Monte Frauen, F-r-a-u-e-n. [LR272]

SENATOR SCHILZ: Thank you. [LR272]

MONTE FRAUEN: Okay. I was formerly a county commissioner in Keya Paha County for eight years, and during those eight years I was on the Niobrara Council from 2001 to 2008. And I haven't had much to do with it since, but I watch what they do and read their minutes and things. I appreciate the Niobrara Council as a local sounding board. And we, while I was on there, we got lots of calls from people, you know, with concerns wanting maybe to talk to somebody they knew rather than somebody from the National Park Service. And so we were kind of a...just a stepping stone for them. Anyway, some of the things I'd like to point would be...and I think they're probably in the packet that Kalli handed out, the list of stuff, but some of the things that I felt were more important that the Niobrara Council accomplished. For the public, and this is my opinion, probably one of the greatest things was keeping the gaging station open at Berry Bridge. At one time it was going to be closed. I believe, I'm not positive, I think that's a USGS deal. But the council looked for partners and funding and whatever to keep it open. And other than possibly one below the Spencer Dam, that is the only gaging station on the Niobrara that had 60 years of uninterrupted criteria or whatever you want to call it, which would be probably close to 70 years now. And I myself, I don't believe that gaging station would have been there without the Niobrara Council. And it will be very important in the future for water law and everything else that's going to come up. For myself, one of the most important things that I see was the creation of the Middle Niobrara Weed Awareness Group which dealt with noxious weeds on the Niobrara River. They look for funding all over. I know that the National Park Service give grants for each county to get like, oh, weed software, different things like that. But managed to come up with money to hire helicopters, four-wheelers to spot spray different weeds on the river, mainly loosestrife...purple loosestrife, spurge, and Canada thistle. And where I'm at we don't want that leaving the river. I'm seven miles out of the river, by the way. But I think noxious weeds is a huge problem throughout every state and I'm right against the South Dakota border and it's a huge problem there also. Then for the environment, one of the most important things I think we did environmentally was an old car removal project which was right here east of Valentine, I'm going to say quarter-mile to a half-mile from the very start of the scenic river, right below the Borman Bridge. There was a bunch of old cars that had been dumped in there, you know, 40, 50, 60 years

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previous. As a bank stabilization project we managed to...I don't know how they come up with the funding. You'll have to ask Kalli. (Laugh) But anyway, got all of them removed. We got an environmental assessment done because obviously back then when them cars were threw in the river they had oil in the transmissions. They had grease in the rear ends. All that stuff all had to be taken care of, cleaned up without making worse for the environment and that was accomplished. Then just a couple other things for the public, while I was on there we placed four permanent toilets, vault toilets, through periodically along the river. We actually have...in my opinion we needed one more space to kind of even them out so they were spaced along the river properly, you know. But those, if none of you have ever been there, they are just unbelievable. The guy that come up with the idea used big black pipe so that the sun hits that black pipe, heats it up, it sucks all the odor and thing out of the vault, puts it up above. And they smell nice, they're clean, they do a great job of taking care of them. The the tree removal project, we two or three of them along the river in different places. The one in particular that I remember was a car hit a tree right below Rocky Ford. I was a commissioner, I went down there and measured and I don't recall exactly but 10 or 11 feet from the center of the road to the tree. So this tree was not growing in a ditch. It was growing up like they do along the river road. But anyway, the car had hit this tree. Well, then we got to looking and there were two other old scars, so this tree had been hit three times. It was an ash tree, 10-inch diameter, such a matter. And it was a little group of five there. So we went along with...I believe this was a grant from the National Park Service that we come up with this money to go along and take all of them trees that were growing right up in the road that were a safety hazard. [LR272]

SENATOR SCHILZ: Sir, how many more points do you have? (Inaudible). [LR272]

MONTE FRAUEN: Oh, I'm out. That's fine. Okay. I had a couple more. I'll just let them go. What I would do, I would take any questions from you guys. But if you have questions for the Niobrara Council, being as I'm not on there anymore I'd prefer you ask them. [LR272]

SENATOR SCHILZ: If you just have a couple more go ahead and just quickly, please. [LR272]

MONTE FRAUEN: Oh, okay. I don't know what I got here. The bill...just actually one, the bill creating the Niobrara Council in the Nebraska Legislature charged them with land protection.

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And while I was on the board we worked for nearly a year putting together an easement program that specifically tried to keep agricultural as our number one project on the river. A couple easements that were done, one in particular managed to keep the land in the family. A nephew wanted the land, had no way to buy out his uncle, sold the Niobrara Council an easement for enough money to pay his uncle off and the land is still in the family. [LR272]

SENATOR SCHILZ: Very good. [LR272]

MONTE FRAUEN: So the easements. [LR272]

SENATOR SCHILZ: One sec. Any questions for the gentleman? Seeing none, thank you for your testimony. Appreciate it. [LR272]

MONTE FRAUEN: Thank you very much. I appreciate you guys being here. [LR272]

SENATOR SCHILZ: Next testifier, please. Come on up. And if anybody wants to testify, you don't have to raise your hand. Just stand up and come on up. We're...we'll just have you do that. Good morning and welcome. Thank you. [LR272]

PAMELA SPRENKLE: Thank you. My name is Pamela Sprenkle, P-a-m-e-l-a S-p-r-e-n-k-l-e. I am a 12-year resident of rural Valentine. On 2005-2007 I worked for the Niobrara Council as a staff assistant. And from 2007 through the end of last year, I worked for the National Park Service, the Niobrara National Scenic River as a resource management specialist. I'm since retired. First of all, I greatly appreciate Senator Haar's introduction today. I thought it was very comprehensive and well put. And it's refreshing to hear some objective information like that. My purpose this morning is just to briefly indicate my support for the boundary correction in particular. I have submitted written testimony that I presented earlier this year in support of LB622. But my big thing is emphasizing something needs to be done to correct the boundary. Basically, without mutually recognized, Park Service, Niobrara Council, there is no reason for the Niobrara Council certainly to receive the \$100,000 or so it does from the federal government each year, and probably not the \$42,000 it receives from the state. I understand that there is a lot of concern about the boundary, accepting what the feds say, that there are many members of the

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council and the council's supporters who wish that the council could have some more independence from the Park Service. And I certainly appreciate that. I respect those points of view. I think that right now, this reticence, this actually active effort to not change the boundary is cheating the American taxpayers who are spending all these monies. The Park Service needs the Niobrara Council to do certain things within its administrative area within the Niobrara National Scenic River. And if the council says, no, they do not respect that, the Park Service certainly should not be working with them. There is nothing in the general management plan that says they have to. And there are certainly other parties out there that might be as well equipped as the council to that. I personally hope that never happens. My point here, just very briefly, is that I guess addressing to the members of the council, in many ways I am with you on some of your concern about the property rights, things of that sort. If you're really interested in that, you need to take a more courageous stand and have a council that is totally independent of the National Park Service, a Niobrara Council that is perhaps associated with a certain segment of the Niobrara River that may or may not coincide with the scenic river boundaries. If the council wishes to do things like cede or abatement, etcetera, in those areas, god bless. That would be wonderful. But that is a Niobrara Council that is not helpful to the Park Service at this point. If the council does not choose to change its view on the boundary, I think that within a very few number of years that the council will be strictly funded by the state. Thank you. [LR272]

SENATOR SCHILZ: Thank you very much, Ms. Sprenkle. Any questions? Senator Schnoor. [LR272]

SENATOR SCHNOOR: Why do you think the boundary needs to be changed? [LR272]

PAMELA SPRENKLE: Because the boundary forms the basis of the Park Service administrative ability to do things within the area. The Park Service can do things only with a certain confined area of land. And the monies that they have available need to be used within those areas of land. So there are restrictions on what can be done where. And you know, it's not just that. It's also, you know, this is kind of a major snubbing of the Park Service not to...correct, not to bring the Niobrara Council boundary in coincidence with their boundary. So it's also a matter of respect, if you want to put it that way. [LR272]

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SENATOR SCHNOOR: I guess you say respect. So if the National Park Service wants more ground then the council is supposed to respect them and give it to them? [LR272]

PAMELA SPRENKLE: The council is not...the Park Service is not asking for more ground. The boundary of the scenic river, the official boundary of Niobrara National Scenic River as recognized through the National Wild and Scenic Rivers Act was created in 2007 with the signing off of the general management plan. That's the way the Wild and Scenic Rivers Act is set up. Initially, when a scenic river is created there is a default quarter-mile boundary that exists along the entire length of the river. There are...the acres that correspond to that are basically what the National Park Service or whatever other administrator of the scenic river is allowed to work with in determining a boundary. The boundary is determined according to the outstandingly remarkable values associated with the scenic river. So there is certainly, by approving the boundary that the Park Service determined in that general management plan in 2007, that's not making a wit of difference between then and today. It's the official boundary of the Wild and Scenic River, whether the Niobrara Council agrees with that or not. [LR272]

SENATOR SCHILZ: Senator McCollister. [LR272]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. You were employed by the National Park Service for a time? [LR272]

PAMELA SPRENKLE: Yes. [LR272]

SENATOR McCOLLISTER: I would assume that the positions you're stating are not their positions but your personal opinion, is that correct? [LR272]

PAMELA SPRENKLE: I am representing myself today. [LR272]

SENATOR McCOLLISTER: Okay. [LR272]

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PAMELA SPRENKLE: And my opinions are based on what I learned through my work experience in the National Park Service. I obviously spent a lot of time reviewing the GMP, studying it because what I did in my job was totally based upon that. [LR272]

SENATOR McCOLLISTER: And so you're assuming that the money should follow the boundary dispute, hoping to use that as a lever to resolve the boundary issue. [LR272]

PAMELA SPRENKLE: Well, on that I'm saying now I'm taxpayer and I don't want the Park Service giving \$100,000 a year to an entity that's not doing the things the National Park Service needs them to do. [LR272]

SENATOR McCOLLISTER: Thank you. [LR272]

SENATOR SCHILZ: Thank you. Any other questions? Senator Friesen. [LR272]

SENATOR FRIESEN: Thank you, Chairman. When those boundaries were redone, when they were redrawn, it seemed when I've at least looked at the map, what kind of process was used to determine the boundaries? They seem rather random. [LR272]

PAMELA SPRENKLE: Right. [LR272]

SENATOR FRIESEN: What criteria did they use to establish the new boundaries? [LR272]

PAMELA SPRENKLE: Well, basically there was a body of resource information that gathered I think early in the life of the park unit--it is not a National Park; it's called a park unit, the scenic river--where experts came in, assessed fossil resources, archaeologic resources, came in a took a look at from what points on the river you would be able to see up the canyons or on to the prairie rim. So that information was put together along with the Park Service's determination of what of those values were the most critical to maintain in the park unit. I mean why is the scenic river here to begin with? Well, it's here because the palaeontological, the fossil resources are outstanding. They're like Badlands there out west. You have incredible scenery. You're in a place where you have this convergence of six ecosystems, the water quality, etcetera. So the boundary

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is supposed to be assigned according to maximize those values within the boundary, which is why at some points along the scenic river you will have a boundary that maybe juts out for half a mile versus another part where maybe the boundary is just almost along the high water mark. It's supposed to be driven by the outstandingly remarkable values. [LR272]

SENATOR FRIESEN: So if conditions would stay exactly as they are today, what harm to scenic river is there? I mean it seems as though the council and the National Park Service is getting along. We have not heard any complaints from the National Park Service. Yes, there's a dispute on the boundary but National Park Service is going to administer their part of it separately and they still control it, like you said. But they have to work with county zoning and the boards to establish criteria for what they do. So what damage do you see happening by things staying the same? [LR272]

PAMELA SPRENKLE: The Niobrara...speaking as a former member of the National Park Service, in my view, the past few years...and I want to say this, I've spoken publicly in front of the Niobrara Council about these issues back in January, my disappointments with where they have been going lately. I thought the Niobrara Council did tremendous things a number of years ago. But how do I say this? The thing is the National Park Service depends upon the Niobrara Council to protect parts of the scenic river that the Park Service cannot. The Park Service frankly has no authority outside of the river itself--what goes on on top of it, what goes on within it--which is why the Niobrara Council is such an important partner to help as a mediator with the zoning coordinators. They are the ones that the National Park Service wants to be able to hold conservation easements to do protections on property, other land acquisition. Park Service really can't tell some land owner who lives on the banks that they can't paint their cabin neon pink or something like that. That is a zoning thing and that is something that we look to the Niobrara Council to do to make sure that if, you know, there are no zoning regulations to, you know, prevent that type of thing, that maybe the council can work with the zoning administrator to improve it. [LR272]

SENATOR FRIESEN: So it's still in the best interest of the Park Service to work with the Niobrara Council? [LR272]

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PAMELA SPRENKLE: Absolutely. Absolutely. Yeah, I mean, you know, talk about if the money goes, well, Park Service is going to be doing some severe scrambling. And they have enough ...they're not pure white in this issue at all either. So you know, this is partnership. It's two entities coming together to work or to not work. I'll tell you frankly that during my last few years working for the Park Service with resource management issues, there were times when I could not do the job I wanted to do because of...you know, there's just not the cooperation that was really needed. [LR272]

SENATOR FRIESEN: As a landowner myself though, I would much rather work with a local entity than the National Park Service. [LR272]

PAMELA SPRENKLE: You bet. You bet. [LR272]

SENATOR FRIESEN: So it seems to me by doing some of this we're turning over more control to National Park Service than we are to the Niobrara Council. So that's my concern I guess. [LR272]

PAMELA SPRENKLE: I would disagree totally with that. The stronger the Niobrara Council becomes, the more in the background the Park Service can withdraw. I agree, I would much prefer with the council, with a strong, progressive council. [LR272]

SENATOR FRIESEN: Thank you. [LR272]

SENATOR SCHILZ: Thank you, Senator Friesen. Senator Davis. [LR272]

SENATOR DAVIS: Thank you, Senator Schilz, and thank you for coming. So you talk about the outstanding remarkable values and I think I get what you're talking about there. Do you think there are any outstanding remarkable values on Fort Niobrara Wildlife Refuge. [LR272]

PAMELA SPRENKLE: Sure. [LR272]

SENATOR DAVIS: But that is not included in the plan. [LR272]

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PAMELA SPRENKLE: The Park Service plan is confined to the area that the Park Service manages. The Niobrara National Scenic River is managed by two separate federal entities. In the act, the wildlife refuge was named specifically for the nine miles or so of riverfront it maintains because they already owned land there. And actually, the management of their outstandingly remarkable resource is they have a different sort general management plan. That goes to a higher level of management, a less people-oriented level of management that than does the 69 miles of the scenic river that's managed by the National Park Service. [LR272]

SENATOR DAVIS: But they were excluded from the plan and those acres were used elsewhere. [LR272]

PAMELA SPRENKLE: The...right. [LR272]

SENATOR DAVIS: Which I think is sort of the basis as to why a lot of people have an issue with what the Park Service wants or what the new plan has tried to do. It excluded certain properties and reached out into other properties that were privately held. I think that's where the issue is. And if you go back in time, I think the Park Service and the Niobrara Council work together very well and I still think they do. But when there was a prior Park Service administrator here who essentially told the Niobrara Council you're going to do what I say or we're going to defund you, that's just not an appropriate way to work with people. Would you agree with that? [LR272]

PAMELA SPRENKLE: I know that the previous superintendent saw things differently. He was a man of great character. He was a very black and white sort of individual and I do understand exactly what you're saying about that, that there was much less tendency to bend and compromise. What he did was certainly within his rights and perhaps what he did should have been more nuanced. So I understand what you're saying. I see that. And I understand that there are a lot of folks in this audience who definitely agree with that. And I respect that that's their feeling. [LR272]

SENATOR DAVIS: Thank you. [LR272]

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SENATOR SCHILZ: Thank you, Senator Davis. Anybody else? Senator Haar. [LR272]

SENATOR HAAR: Trying to sort through this, again the boundaries initially were set at that quarter-mile when the Niobrara was established as a scenic river, is that correct? [LR272]

PAMELA SPRENKLE: Yes, that's correct. [LR272]

SENATOR HAAR: But then according to the management document, it said until the final boundaries. Who set the final boundaries? Was that up to the Nebraska or the federal? [LR272]

PAMELA SPRENKLE: No, that is up to the federal government. I think in the Niobrara...in the Wild and Scenic Rivers Act, the federal act, that the administrating agency for the scenic river is required to determine what the final boundaries should be based upon those outstandingly remarkable values. And the way they establish these is by the creation of a general management plan. What happened, there was a general management plan created in 1996. That was a plan that was thrown out by the courts. It was challenged in the courts because it was determined that the resources that were identified were not really identified as outstandingly remarkable. There were like really great resources, but they did not meet the strict definitions of the Wild and Scenic Rivers Act. So at that point when that boundary had been negated, the boundary went back to the original default boundary: the quarter-mile boundary. In 2007 when the revised general management plan was signed off on then... [LR272]

SENATOR HAAR: Yeah, and that's thing that I've...(inaudible). [LR272]

PAMELA SPRENKLE: That's correct. Then in 2007 with that record of decision, that boundary became the official boundary of the Niobrara National Scenic River. So whoever is talking about National Scenic River--whether it's the National Park Service or the Niobrara Council or the state of Nebraska--that is the boundary of Niobrara National Scenic River. And that will not change according to the Wild and Scenic Rivers Act until there is a new general management plan created for whatever reason. [LR272]

SENATOR HAAR: Is that in the works, or I mean that's just something that happens? [LR272]

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PAMELA SPRENKLE: No, that would happen over time if there were some reason to have to change a boundary, land acquisition or something like that, who knows. Certainly a general management plan could be rewritten in the future. [LR272]

SENATOR HAAR: So the boundary is the boundary... [LR272]

PAMELA SPRENKLE: Yes. [LR272]

SENATOR HAAR: ...basically by federal definition. And what the Nebraska Legislature has done is never to change from that original quarter-mile. [LR272]

PAMELA SPRENKLE: I think the...doesn't the legislation say it's the 1996 GMP bound...? [LR272]

SENATOR HAAR: Yeah, actually it does. [LR272]

PAMELA SPRENKLE: Yes, which has no meaning at all. That's just...that's hocus pocus. So what the council did back when that boundary was negated, it did the appropriate thing which I believe was the same thing the Park Service did by utilizing the quarter-mile boundary. And that is why the council continues doing that even though the true boundary of Niobrara National Scenic River is the boundary that was signed off in 2007. [LR272]

SENATOR HAAR: So right now we have a Nebraska boundary...(inaudible) boundary designated by the Nebraska Legislature and there's one designated by the Park Service. [LR272]

PAMELA SPRENKLE: Right, right. The significance of the Nebraska boundary is that that is what the Niobrara Council's administrative area is. That's all that means. That doesn't anything in terms the scenic river really. It says that is where Niobrara Council will do what the Niobrara Council does. [LR272]

SENATOR HAAR: So do you know--and I can ask somebody else about this, too--if the...there's about \$100,000 is my understanding coming from the feds and \$42,000 from the state. [LR272]

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PAMELA SPRENKLE: Yes. [LR272]

SENATOR HAAR: So can the council spend any of that federal money outside of the federal boundary? [LR272]

PAMELA SPRENKLE: To my knowledge, there might be some superintendent's discretion on that. I think there probably is. But I'm not the one to answer that. [LR272]

SENATOR HAAR: Okay. I'll ask that to someone else. [LR272]

SENATOR SCHILZ: Thank you. Senator McCollister. [LR272]

SENATOR McCOLLISTER: The Park Service boundary--and thank you for your testimony--is based on the management plan, is that correct? [LR272]

PAMELA SPRENKLE: That's correct. [LR272]

SENATOR McCOLLISTER: It seems somewhat arbitrary, isn't it, based on the...it's changed twice, correct? The management plan... [LR272]

PAMELA SPRENKLE: Right. [LR272]

SENATOR McCOLLISTER: ...changed the boundaries. How likely...how often do those management plans change? [LR272]

PAMELA SPRENKLE: Well, they're...they take a lot of effort to do. So one would hope not very often, perhaps once every ten years or so, maybe looking at other park units. Let's see. Yeah, so it would be about that time. When you say "arbitrary," as I said before, there's a lot of work that goes into that. The thing is the thing that I know the Park Service had been asking for originally was that the Nebraska Niobrara enabling act legislation wording be changed such that the boundary recognized by the Niobrara Council would be that of the current management plan which would take care of all cases so that if ten years from now there would a new GMP created,

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you wouldn't have to do anything, that the council would just accept what the new Park Service boundary would be, as it's primary partner. [LR272]

SENATOR McCOLLISTER: Why do you suppose the Niobrara Council is reluctant to adopt the National Park Service boundary? [LR272]

PAMELA SPRENKLE: I don't know. I think I hinted before that I think the Niobrara Council the past few years has had a number of members who are really unhappy with the federal management. I think what they are doing...I respect that if people who feel that way and feel they can't work within the way...the framework of setup, I think individuals like that need to create their own alternative...work to create their own alternative Niobrara Council, if you want to call it that. I think right now what my biggest thing is that I resent the actions of folks who are dragging their feet on this because it is wasting money, wasting time. [LR272]

SENATOR McCOLLISTER: Thank you. [LR272]

SENATOR SCHILZ: Thank you, Senator McCollister. Any other questions? Seeing none, thank you very much for your testimony. [LR272]

PAMELA SPRENKLE: Thank you. [LR272]

SENATOR SCHILZ: Next testifier, please. Good morning. [LR272]

DOLLY KIENKE: Good morning. Thank you for this opportunity. I am Dolly Kienke, K-i-e-n-k-e. I currently serve as the Keya Paha County zoning administrator. I am not here to testify in that respect. These are my opinions. I would like to give you a little history lesson before I start on my soapbox. Many years ago, about 1990, the local counties which included Brown, Keya Paha, and Rock, recognized the need to protect and preserve our god-given wonderful land on the Niobrara. They joined together in a joint management plan and they made up what they called a Niobrara River corridor preservation overlay. In this, it defined what the wonderful assets of the river were. It also said how they intended to preserve and protect this land. You have to realize that most of these gentlemen are seven-plus generation landowners in these counties.

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Their ancestors learned by living on the land and trying to make it liveable and productive, what it took to preserve it so it could be carried on to their grandchildren. So this is not coming from the basic studies that people do. This comes from the heart. This comes from learning on living on the land. They learned through the years to balance the human impact on a very crucial part of our world. They learned to protect the plant life along with other agricultural endeavors. If you look as this has progressed through the government's footprint, the Niobrara Council was exactly what they started way back in probably 1987, 1988 and adopted in 1990. The same landowners...and you must understand that most of the landowners that sit on the Niobrara Council are the same landowners that owned this land a hundred years ago. To be told that we are not good stewards of this land hurts. We have all grown up in this area respecting what we were given by God. We have grown up to understand that as the world changes, we must share. We have and we have tried to do it not making the big footprint or ruining what we have. Keya Paha County actually controls or has most of the building areas along the Niobrara Scenic River. In our zoning regulations, not only do we consider the National Scenic River Act, we have put in boundaries from that boundary so that you can't encroach on that boundary or that boundary. So we actually have a mile back that we consider what's going to be built. In the 17 years that I have been zoning administrator, I have worked with the Niobrara Council. I have worked with the scenic river and the Parks people. We have never ever come to a point that we could not discuss our problems and find a solution that was best for everyone. It's just not arose. We've worked together very well, I believe, for the best possible outcomes for everyone involved. That's all I have. [LR272]

SENATOR SCHILZ: Thank you very much. Any questions? Seeing none, thank you very much for your testimony. [LR272]

DOLLY KIENKE: Thank you. [LR272]

SENATOR SCHILZ: Next testifier, please. Anyone? Going once. Going twice. There you go. Don't be afraid, folks. Keep moving. Good morning. Welcome, sir. [LR272]

ED HEINERT: Thank you. Thank you for being here today and listening to the people of our community. My name is Ed Heinert, H-e-i-n-e-r-t. I am a property owner in Cherry County, also

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an outfitter and my wife and her siblings own a good chunk of land along the Niobrara River. I'm here to voice support for the Niobrara Council. These men and women that sit on this council are men and women that have invested their life in this area and also their forefathers and families go back generations and generations. And these are people that have been through it and are very, very wise in coming up with resources or problem solving and should be definitely a part in decision making on the Niobrara River. The National Parks has a totally different agenda managing the river than what men and women that have lived and have died here. And we need that balance. We need that knowledge to blend together to make the appropriate decisions. And without the Niobrara Council, I don't believe that that would happen. So I'm here to say that we need to have their...your support to make this happen. That's all I have. [LR272]

SENATOR SCHILZ: Thank you, sir. Any questions? Senator Haar. [LR272]

SENATOR HAAR: Yes. Since one of the issues that really seems to surface all the time is the boundaries, do you have any opinion on that issue or...? [LR272]

ED HEINERT: You know, I haven't studied that enough to make a determination on that. I do agree that they have lessened one area to gain more land in other areas. And I don't know if that's right or not. So I guess... [LR272]

SENATOR HAAR: And that's fine, I was just curious. Thank you. [LR272]

SENATOR SCHILZ: Thank you, Senator. Senator Schnoor. [LR272]

SENATOR SCHNOOR: So I think you've explained this but I just want to clarify this. So as a landowner and an outfitter, do you feel as the Niobrara Council is currently formed, do you think they have met your needs? [LR272]

ED HEINERT: Yes, I do because these are people that are from the same core that I come from. And without having that available to make these decisions, whether you're a rancher or a farmer or an outfitter, I think that we're just on a different level of thinking than what the National Parks is and...because I can guarantee you one thing, that National Parks has an agenda over here to

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manage a park more than...I think more than the resources that the Niobrara River has. And I believe that a lot of their decisions are based on managing the park. And the only thing that they can manage is the surface water. So I...that's where I think the Niobrara Council is so valuable with having those men and women from different background sitting on there, addressing the plan to manage it, addressing the needs that arise. They've done some wonderful things. And I feel more comfortable going to them as a group than what I would going into the National Park system and asking those same questions. [LR272]

SENATOR SCHNOOR: Okay. Thank you. [LR272]

SENATOR SCHILZ: Thank you, Senator Schnoor. Any other questions? Seeing none, thank you for your testimony. Appreciate it. [LR272]

ED HEINERT: Okay. Thank you. [LR272]

SENATOR SCHILZ: Next testifier, please. Anyone? Anyone? It's going to be a short hearing if we're not careful. Good morning and welcome. [LR272]

MARIAN LANGAN: Good morning, Senator Schilz and members of the committee. Thank you for giving me a reason to come up here today. This truly is, I think we can probably all agree, God's country if there ever was any. My name is Marian Langan, M-a-r-i-a-n, Langan is L-a-n-g-a-n. I'm the executive director of Audubon in Nebraska and I'm here today testifying as representative for thousands of people across the state that love our state, care about the birds and wildlife and habitat of the state, and that certainly includes the Niobrara River Valley, an amazing internationally important to all those people and certainly absolutely important to the people that live here. Audubon Nebraska was involved in the formation of the Niobrara Council. We have completely supported all these years the functions and responsibilities of the Niobrara Council. We had...my predecessor and colleague Dave Sands was a member of the Niobrara Council for many years. And for many years that partnership worked wonderfully. That has just...I can't tell you what's going on, but it has gone off the rails. The...it may be that there was a problem personality in a Park Service representative. It may be that there are personalities involved in the council. I don't know. But lots of the basic functions are not happening. The

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easements and partnership work that should be going on is not happening. Environmental trust grants have been returned. There's lots of rumors that fly around. It feels sometimes like the only information you can get is from rumors. And you know, a body sanctioned by the Legislature should be...for reasons of working in partnership should be doing that. And we fully and absolutely support the council remaining. I'm the...grew up in rural Nebraska. I'm the daughter of a farmer. I absolutely want our voices to be part of that. The council is how that mechanism has to happen. So I don't have the solutions and I'm not sure what to tell you about the solutions. But we do need some light shone on it. I really appreciate everyone's efforts to do that and I very much appreciate all the work that's been done by council representatives in the past, by everyone who's been involved all these years. It's an amazing resource for Nebraska. It's an amazing resource for the people that live locally. And we need to make sure that continues in a way that is...you know, gets to protecting the amazing resource that we have for all the reasons it's important. It's important for the people who live here. It's important for our agriculture. It's important for the birds and wildlife, the habitat, all of those things. So all the voices have to be at the table and be listened to respectfully. And that is another aspect of what's happening recently, is that those differing opinions are not welcome to be part of the conversation at Niobrara Council hearings. Members, let me just say, civility is extremely low and people have not been treated very well and there's...what do I want to say...you know, it's just that the issues related to the lack of civility seem to be escalating as opposed to deescalating. We've got to be able to work in partnership. So I really appreciate your time looking at this. We really do hope that as a result of all this, this boundary situation can be straightened out one way or another. We need to work together. We need to do what needs...you know, what is right for the river. And whatever that solution is I'm fine with, we just need to get to one. So thank you very much for your time today and I'm happy to answer any questions. [LR272]

SENATOR SCHILZ: Thank you. Senator McCollister. [LR272]

SENATOR MCCOLLISTER: Thank you for your testimony. We've talked about how the National Park Service is guided by their management plan. Do you care to comment on the management plan and how does it differ, if at all, from your perspective on the river. [LR272]

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MARIAN LANGAN: What do I want to say? I would say I'm not familiar enough with how the federal government actually executes those plans in other locations to really have a good comment on that. It does seem from the testimony that's been brought up, that personalities evidently play a big role in what actually happens. I would suggest...I don't want to put him on the spot and certainly it's your prerogative to do so, but I do know the Park Service superintendent is here and so maybe they can talk a little bit more about the details of how those things are executed. [LR272]

SENATOR McCOLLISTER: Does the Niobrara Council have a management plan per se? [LR272]

MARIAN LANGAN: They have a cooperative agreement I know that lays out, you know, for periods of time how they're going to work in partnership with the Park Service. And so the council and the Park Service have to sign off on that. [LR272]

SENATOR McCOLLISTER: Okay. Thank you very much. [LR272]

SENATOR SCHILZ: Thank you. Any...Senator Davis. [LR272]

SENATOR DAVIS: So you talk about the Niobrara Council going off the rails and you say they're not...civility. Personally that happened to you? [LR272]

MARIAN LANGAN: No, not to me. But we have members that I'm representing that have had that experience. [LR272]

SENATOR DAVIS: So it's secondhand information that we're dealing with. [LR272]

MARIAN LANGAN: Yes, it is. Absolutely. [LR272]

SENATOR DAVIS: Thank you. [LR272]

SENATOR SCHILZ: Thank you, Senator Davis. Any other questions? Senator Haar. [LR272]

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SENATOR HAAR: So I kind of go back to my days of mediation where you'd come together and you form a plan or the judge tells... [LR272]

MARIAN LANGAN: Sure. [LR272]

SENATOR HAAR: ...you know, the...and in this case the Legislature created the council. And I guess they collaborate on their own totally separately from the Park Service. The Park Service could operate totally on its own from the council because we created one; you know, the Park Service created the other. Is there a copy of the cooperative agreement that you're aware of or do I need to ask somebody else about that? [LR272]

MARIAN LANGAN: Yes, I do have a copy but not with me. But the council can provide that, sure. They have it. And I'm sure the Park Service could as well. [LR272]

SENATOR HAAR: I mean... [LR272]

MARIAN LANGAN: Or I can e-mail it to you. I mean I have it, I just... [LR272]

SENATOR HAAR: And we heard in the first testimony some really good things the council is doing and think everybody agrees on that. [LR272]

MARIAN LANGAN: Yes. [LR272]

SENATOR HAAR: But your written...the law that the Legislature passed was that there should be management partnership. And so I think that's what I'm going to be satisfied, that there's a partnership that works. Otherwise, there doesn't seem to be any sense in what we created (inaudible). [LR272]

MARIAN LANGAN: Yes, and I'm absolutely not an attorney so I can't get...you know, I don't know how to deal with the nuances of how the Legislature acts out that...how those pieces are executed. But the Niobrara Council was created so that we would have a local voice in these decisions, rightly so. And it feels like there is so much conflict now that we're not going to be

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able to get or we potentially won't have it going forward because, I don't know, people aren't listening to each other or what's on. [LR272]

SENATOR HAAR: And I'm concerned if, you know, a plan like this could happen and if an earlier testifier maybe every ten years, although she was just guessing. So if we don't get this settled from the Legislative standpoint, this is going to come up every ten years. It's going to be like the census and when we have to redistrict. And not only is it going to come up but then it takes...if there's a solution, it takes someone with a priority bill every time a border dispute comes up. And that seems, at least to me as I listen to the rest of this and I'm...you know, we've got to have a management that works and we don't have to engage with all the time. [LR272]

MARIAN LANGAN: Right. You know, we've been involved for many years in the cooperative agreement and the recovery plan on the Platte River. You know, these issues aren't intractable decisions ... intractable issues that absolutely can't be solved. They can. You know, it doesn't get more contentious than what's happening on the Platte River. But through that cooperative agreement and through the recovery plan, you know, all the voices have a seat at the table: the states, the federal government, all the various water user groups, the local landowners, water users. All those groups come together. That actually does work. You can get to cooperative solutions on these things. But for some reason that...we haven't been there for the last few years on the Niobrara Council. And what's causing that exactly I don't know. But something needs to... [LR272]

SENATOR HAAR: Do you...are you (inaudible) what the process that went on with the Platte River that was able to bring them together, these (inaudible) and come to an agreement? [LR272]

MARIAN LANGAN: It was actually the federal government laying out a process in partnership with...well, let me back up. It was wrapped up in the relicensing of Kingsley Dam. And the federal government had the option of just controlling what was going to happen downstream from that. And instead of that, a cooperative agreement was established between Colorado, Wyoming, Nebraska, and the federal government about what was going to happen on that river for those threatened and endangered species. And so it was part of that negotiated agreement that

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these are the seats. You know, this is how it's going to go. And then you guys have to come together and find the solutions. And we're doing it. You know, we're working on that and it's happening effectively. And I'm sure in all of your work you've seen way more than I have in how groups need to come together to work to resolve these issues because the taxpayers are funding it. It is in the...it is part of the responsibility of Nebraska's citizens to know what's going on with that money and what's happening positively as a result of it. And so all those things are all wrapped around. And we need to have that untangled and we need some clarity brought to the process. [LR272]

SENATOR HAAR: I mean we see in government all the time that if you have agencies operating in different silos, they're overlapping in terms of their spending their money, in terms of what...and they don't get much done usually...let me change that and say they don't get as much done as if there was a management partnership. And so what kind of gives me a headache around this is the federal government could, I suppose, at any point choose their option C which is go it alone. And Nebraska could keep its council and they could sort of go it alone. And both groups would be losers. [LR272]

MARIAN LANGAN: In my experience when things come to...you know, when things get wrapped around the axle like that it's a structural issue. I mean we hear talk about the personalities and stuff but that wouldn't be driving things if the structure was actually right. So I do feel like there's a structure. Unfortunately I don't have an answer for you of what that is. But there's something not going on right in this situation. [LR272]

SENATOR HAAR: Unfortunately we as a Legislature can't force a...yeah, I mean we can set up a structure, that's...we can do that because it's our law that created the council in the first place. But you can't legislate cooperation...(inaudible). [LR272]

MARIAN LANGAN: Sure. You're right. You're right. [LR272]

SENATOR SCHILZ: One more. Thank you, Senator Haar. Senator McCollister. [LR272]

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SENATOR McCOLLISTER: Talking about the federal Park Service management plan, you may not know specifically how it occurs here. But is there a mechanism by which the public input is used to develop that management plan? [LR272]

MARIAN LANGAN: Yes. I believe it's all public with those alternatives, and then the public has the right to submit comments on those various management options. I can't remember, was it A, B, and C or whatever is in that document you looked at? I believe the public has input on that and then they vet all that and make a decision. But again, I would defer to Park Service personnel for that because I'm not 100 percent in all that. [LR272]

SENATOR McCOLLISTER: Thank you. [LR272]

SENATOR SCHILZ: Thank you, Senator McCollister. Senator Davis. [LR272]

SENATOR DAVIS: So you made a lot of statements about the Niobrara Council. Can you cite specific cases, or these are just all secondhand rumors that you've heard? [LR272]

MARIAN LANGAN: I will be absolutely honest with you, Senator Davis. They did all come from other people. They're people I work with very closely and my membership that I work with have been involved in this for a long time. And so I hear from them, I'm one person in an office so I don't have the ability to get everywhere all the time. So I haven't been able to work firsthand on the council. I have tried...you know, if I had a...because our organization has been involved for so long, if I had an official capacity to come up I could. And I have tried to be appointed back to the council for many years, but I haven't been able to. You know, I wasn't selected so I haven't been able to actually be able to go to meetings. [LR272]

SENATOR DAVIS: So you recognize that many of the people that are on the Niobrara Council are either elected officials or appointed by elected official within the local area, correct? [LR272]

MARIAN LANGAN: Oh, yes. Absolutely. And I have huge amount of respect for everybody involved. I know what it's...I work with people all day, every day in my work. I'm from

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Nebraska. I grew up here. I absolute respect for everybody that's working for this. Anybody that gives public service is to be commended. It's huge amount of--as you all well know; I don't need to tell you--time and effort and personal sacrifice that goes into that. I do agree with that and understand and respect that totally. [LR272]

SENATOR DAVIS: So my question kind of comes down to this, Niobrara Council is going to take actions that not everyone is going to like. So are the issues that you're hearing simply just sour grapes from your people who aren't getting what they want? [LR272]

MARIAN LANGAN: No, because my issues are actually rooted in Nebraska taxpayer issues because of the Legislature not working in partnership. I mean this is what it looks like to me, that by default our citizens and our Nebraska Legislature doesn't have it set up so that we can do our role appropriately with the feds on the Niobrara River. It's not sour grapes. It's...we've got structural things there that are... [LR272]

SENATOR DAVIS: But you brought some accusations about how things were being done on the Niobrara Council and I thought they were kind of inflammatory. So I'm just trying to narrow that down. [LR272]

MARIAN LANGAN: Okay. And I apologize. I did not mean for them to be inflammatory at all. I truly didn't. I was just trying to raise that...yeah. I understand what you're saying. I think probably I'm exhibiting, what everybody involved in this whole thing is exhibiting, is some feeling the same thing, that things are being said about our members that aren't true and things like that. So I apologize for that if that's the perception. [LR272]

SENATOR DAVIS: All right. Thank you. [LR272]

SENATOR SCHILZ: Thank you. Senator Haar. [LR272]

SENATOR HAAR: Just to follow through a little bit, on page 7 of the management plan is a summary of the public involvement in issues identified. And there was...and I can't vouch and say this is the best way to do it, but there was considerable public involvement. Audiences--and

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this is on page 8--audiences included Nebraska congressional staff, several state senators in Lincoln; Niobrara Council; Keya Paha, Cherry, Rock, and Brown County commissions; Niobrara River Outfitters Association; and on and on and on. And it also documents that there's not total agreement. For example, it says the Middle Niobrara, Lower Niobrara Natural Resources Districts challenged the National Park Service's preliminary assessment of the viability of Cornell Dam, and both groups resolved for its preservation. The Nebraska Game and Parks questioned the National Park's preliminary assessment. And so on and so forth. So there was extensive hearing in developing this plan, whether it was 100 percent perfect or whatever. But my impression that it wasn't, that one day the Park Service stepped out and said, no, we're going to change the boundaries. In fact, it sounds like it was caused in some respects by some lawsuits that said you have to change. And so they went through the expense. And it does sound to me like this is not an easy process to go through. We're probably not going to see it every ten years. And I won't be here in ten years, but I certainly hope we don't go through this agony every ten years to say, are we going to approve the new boundary or not? So thank you for your... [LR272]

MARIAN LANGAN: Yeah. I'm not sure that they changed the boundary every time. Again, I'm not sure that that whole...that that has been brought accurately to the table. But I don't know. So I think if we could maybe have a Park Service person clarify maybe outside of this meeting, but clarify what that actually entails. [LR272]

SENATOR HAAR: And actually it sounds to me like they have to choose between plan A, B, and C and the boundaries. I mean there are a lot of things that get changed at this...you know, if they change their general management plan. [LR272]

MARIAN LANGAN: Sure. And I absolutely wouldn't want to be a landowner that has that boundary change all the time. So I think we need clarification on that. [LR272]

SENATOR HAAR: Thank you for your...(inaudible). [LR272]

MARIAN LANGAN: Yes. Thank you all very much. [LR272]

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SENATOR SCHILZ: Thank you, Senator Haar. Could I just ask real quick, can everybody that wants to testify, can you raise your hands so I know how many folks we have. Okay. I just want to make sure because I do want to get the Park Service representative and make sure that others get up here. Thank you, sir. Have a seat. [LR272]

DOUG STOEGER: Hey, all right. My name is Doug Stoeger, D-o-u-g S-t-o-e-g-e-r. I represent myself and practically everybody I know in town, which is aplenty. First of all, to get back to what a lady said over here about financing the Niobrara Council--you want to talk about a gross, obscene waste of taxpayer money--its 20 or whatever, however many park rangers are here flaunting around. That's one. The other one about the lady that just got up that said something about the Audubon Society may not be...they may not be received well. This isn't heresy; this is personal. I know this for a fact. Some neighbors...I live in town but I know some people out in the country out there. They wanted to shut the river down, the Audubon Society. Their high members of the Audubon Society moved here and their goal was to shut down canoeing. Second of all, my main concern is our economy here. A little tiny bit of history: The Fort Niobrara was originated...I don't know if you know why it was here. It was to transport beef north. So the longhorns were here. The federal government came in. We had...it was great for years and years and years. People came and showed up. We loved it. We loved going out there. It was fun. There was stuff to do. There was things to see. All of sudden the...whoever it is said, well, we want to get this back to what it was originally to be--you know, a wildlife refuge or whatever. It was the longhorns that were here. They took the longhorns and moved them. Well, subsequently nobody goes out there anymore. By nobody I mean, you know, you could check the numbers. They go way down. Whenever the government gets in there, things just start going south. Another thing I wanted to bring up was the park rangers, when they said they don't respect them, those guys trespass continually. I have personally ran them off property that I'm affiliated with. No wonder people don't accept this. It's hard for me to get up here and say this because I rant and I rave. But I just am concerned about our economy. And if we don't keep it local, I'm going to watch it and see what happens and I know what's going to happen. [LR272]

SENATOR SCHILZ: Thank you. Any questions? Seeing none, thank you very much for you testimony. Next testifier, please. Just hand them to Barb and she'll pass them back to us. That's fine. Give it to Barb. [LR272]

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DEAN JOCHEM: Are you going to be looking at them while I (inaudible)? [LR272]

SENATOR SCHILZ: We might be. You can give them to Barb. [LR272]

DEAN JOCHEM: I hope you do because it will sure save a lot of time. [LR272]

SENATOR SCHILZ: Please hand... [LR272]

BARB KOEHLMOOS: Why don't you hand them to me and I'll...(inaudible). [LR272]

SENATOR SCHILZ: Mr. Jochem, welcome. How are you today? [LR272]

DEAN JOCHEM: Would you give me one for myself? [LR272]

SENATOR SCHILZ: There you go. [LR272]

DEAN JOCHEM: (Exhibit 4) This may not be acceptable to have (inaudible). [LR272]

SENATOR SCHILZ: Just hand them to Barb and she'll pass them down, please. That's fine. Give it to Barb. [LR272]

DEAN JOCHEM: My name is Dean, D-e-a-n, Jochem, J-o-c-h-e-m. I am a resident, lifelong, of Brown County, except for a few years that I taught ag in Custer County and also one year in Cherry County. But the rest of my time I've been a resident of Brown County. When I retired from teaching, I became the zoning administrator, and that was about 15-16 years ago, so that got me involved pretty heavily in the issue that's here today. And I think, as I've sat there and listened to us talk about the management plan and all that, really the elephant in the room is not that. It's LB622. The fact that that bill didn't make it out of committee has resulted in this interim study. And this is what I would like to address here today. There's a map over there. Some of you, I've explained it to you. Some of you have looked at it. This is the boundary. We're here talking about trying to do something about the boundary. Before I go any further, I'd like to read something here that I wrote at the end and I'm hearing more and more, as I listened to what's

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going on here today, I say finally support our Niobrara Council. They have done an admirable job and with, I might emphasize, little funds. This is not what this study is implying. It's implying and what I'm hearing is that our Niobrara Council is not a good thing and that they are not doing their job. But they most certainly are. They are local people. They're people that are involved in here. They're dedicated. I've attended about every Niobrara Council meeting over the past few years. The thing that you need to consider here is when the Niobrara Scenic River designation was started, it created some real problems to begin with because of the purpose that it was created for. It was not created to have a scenic river. It was created to stop the Norden Dam, and it did accomplish that. And the problem that occurred then is you found out you had all kinds of private landowners, not a typical situation for a national park. And so now we have a quarter-mile boundary on each side of that river and I personally, and of course I'm not a member of the Park Service, but I personally don't see what's going wrong here. I think that they have managed the thing quite well. And you know, in this country we already have too much federal land, and Cherry County is a prime example of that. If you start taking a look at how many acres of land are already controlled, owned, whatever you want to call it, by the federal government. So you will hear that changing this boundary is actually decreasing the amount of acres in the boundary. Well, that's one of those things that magicians pull. When it's done it takes the areas that are already protected, like within the refuge, Smith Falls Park, the Conservancy. And the Conservancy has aided this plan, in fact, from the very beginning. If you start looking at this map, you want to go over there and see all the acres of land that the Conservancy owns. And going down the road, what's going to happen eventually to that Conservancy land? Is the federal government going to end up with it? So are we going to continue the process that seems to be occurring in the United States of more government-owned land, more government-controlled land? The western United States is pretty well 50 percent plus government land. The same thing can happen to us. So I guess what gives me heartburn on this situation is it didn't need to be. We didn't need to be here today at all. It was simply a way to try to come back around the backdoor and get LB622 back out next...after the first of the year in the new Legislature, get it back out of this committee and get it out on the legislative floor. So we can talk about all kinds of things here but, in my mind, it comes down to this one thing: Do you want that boundary there? And look at all of those people. Those are all privately held landowners that you're going to start...and they've been very cooperative. The only thing that I know of that we have done that was not very well appreciated--and I'm the zoning administrator of the county that did it--and that is the way the

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state statutes read anything outside of the corridor is still under control of local zoning. Anything in the corridor is controlled by the Niobrara Council. Perpetual easements is another way of controlling land forever. And we had a perpetual easement in Brown County requested and actually the corridor cut about right through the middle of it, so half was in and half was out. And we chose to deny that perpetual easement. So that's another reason for expanding the boundary. Then the county loses control of more land. But as far as I know, the only thing that this resulted in is that the landowner didn't get the \$240,000 that they were going to get for putting that land into perpetual easement. But as far as what it's used for, what the county has done for, and what it's protected for, there has been no development there and I don't imagine there will be. So I could go on and on, as you know (laugh), but I will stop and hope that this time that I can get Senator Schilz to ask me a question. I remember at the last meeting we were at, he told me I couldn't ask...have him ask questions and he was right. [LR272]

SENATOR SCHILZ: Thank you, Mr. Jochem. Any questions? Senator Davis. [LR272]

SENATOR DAVIS: Thank you, Senator Schilz. So I just want to ask you just a question because you heard the Audubon representative say earlier that the Niobrara Council had denied easements. In fact, it was Brown County that denied the easements. Is that right? [LR272]

DEAN JOCHEM: Brown County denied a perpetual easement, but we have...I will add to that, we have protected. We've gone right along with the Niobrara Council. As far as I'm concerned, they are the ones that direct what we do on that river. And even though we don't have to necessarily, we always ask them. But that was one thing that we chose not to go along with. [LR272]

SENATOR DAVIS: Thank you. [LR272]

SENATOR SCHILZ: Thank you, Senator Davis. Any other questions? Senator Schnoor. [LR272]

SENATOR SCHNOOR: Thanks, Dean. You know, you and I have talked a lot on the phone over this issue and the purpose, the purpose of this resolution is to answer five questions, so I guess I'm going to ask you these five. I guess first off, you are on the council. Is that correct? [LR272]

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DEAN JOCHEM: No. [LR272]

SENATOR SCHNOOR: You are not? [LR272]

DEAN JOCHEM: No. I attend the meetings because I'm very interested as the zoning administrator for Brown County. [LR272]

SENATOR SCHNOOR: Okay, but you are the zoning administrator for Brown County. [LR272]

DEAN JOCHEM: Right. [LR272]

SENATOR SCHNOOR: Okay. [LR272]

DEAN JOCHEM: Yeah. [LR272]

SENATOR SCHNOOR: The five questions that are supposed to...you know, we're attempting to answer here are the qualifications needed to serve on the council. Are there any disputes of the qualifications needed to serve on the council that you're aware of? [LR272]

DEAN JOCHEM: Not that I'm aware of. [LR272]

SENATOR SCHNOOR: Okay. What about the process of appointing these council members? Is there anything in question about that? [LR272]

DEAN JOCHEM: Not any different than anything else. And just one little addition to that. I think that we, the Legislature, too many times leaves the appointment of officials to the Governor, and that's the case here. They are appointed by the Governor. And I don't know that that's a bad plan but... [LR272]

SENATOR SCHNOOR: Okay. Is there any question of the authority of the council to do their job that you are aware of? [LR272]

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DEAN JOCHEM: Not particularly, except for the fact that...they have the authority but, on the other hand, you heard a lot of talk here today about the money, you know. I think they need to be funded. I think the state of Nebraska needs to take that responsibility because in many cases you're not going to be able to exercise authority unless you have some financial backing to be able to maintain your council. [LR272]

SENATOR SCHNOOR: Okay. I'll be...and I'll ask you about the boundaries because that's obviously a major issue. Are there any other issues within the council that you're aware of that needs to be changed? [LR272]

DEAN JOCHEM: No, but that's a question I'd like to have the council answer. (Laugh) [LR272]

SENATOR SCHNOOR: Okay. That's fine. Now the boundaries, do you have any idea, as a zoning administrator, why Game and Parks came in and established these new boundaries? Because as Senator Davis pointed out, it's rather ironic that... [LR272]

_____ : It's the federal government. [LR272]

DEAN JOCHEM: National Park Service. [LR272]

SENATOR SCHNOOR: Well, the federal government,... [LR272]

DEAN JOCHEM: Yeah. [LR272]

SENATOR SCHNOOR: ...why they...why certain areas they just kind of overlooked, but private landowners, they just seemed to extend the boundaries out in their area. And as of yet, I have never heard a valid reason why these boundaries need to be changed. Nobody from any department has ever given me a reason, a valid reason, why they need to change. Do you have any knowledge of why they want to change these? [LR272]

DEAN JOCHEM: Well, I'm sure what they will tell you is that they have spotted an outstanding remarkable value and so they want to reach out and pick that up. But wherever the river is

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running through land that is controlled by the, oh, like the refuge and like that was addressed, they have complete control over that anyway. And any land that is owned...and they have quite a bit of land along the river. Anything that runs through Conservancy ground, the Conservancy is absolutely going to be on their wavelength, you know. It's the private property that they're concerned about, that they don't know what the farmers and ranchers that own that are going to do. And so that's why the boundaries, in my mind, bloom out when you get on private property. [LR272]

SENATOR SCHNOOR: Okay. [LR272]

DEAN JOCHEM: And if you get time, take a look and see where some of those areas bloom out on that map. They go way out. My question, I'm sure there's a reason for that. There's something there that is wanted, that they want to protect. And you know, what is to stop this? Okay, we change the boundary here. What's to stop this to have it crawl out of the canyons and on to the flats as we go on with this? It could be like a growing cancer. We just keep wanting more and more ground. And I don't, myself, I'm not a member of the National Park Service and they know their business, but I am concerned that we are losing more and more local control over our land, and I don't think we're doing that bad a job of controlling. I don't know what we're doing that's so terrible. [LR272]

SENATOR SCHILZ: Senator McCollister. [LR272]

SENATOR McCOLLISTER: Welcome, Dean. [LR272]

DEAN JOCHEM: Thank you. [LR272]

SENATOR McCOLLISTER: In terms of boundaries, whether they're established by the Park Service or the Niobrara Council, the National Park Service is not bound to limit their land purchases to those boundaries, are they? [LR272]

DEAN JOCHEM: No, far as I know. [LR272]

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SENATOR McCOLLISTER: So...and once...so they would then negotiate with a property owner for the sale of that land? [LR272]

DEAN JOCHEM: I understand that they can do that. [LR272]

SENATOR McCOLLISTER: Or they can condemn it. [LR272]

DEAN JOCHEM: Well, they can only...under the rules, condemnation is a little bit different thing. They can only condemn so much. And Mr. Arganbright can sure answer those questions for you because I (inaudible). [LR272]

SENATOR McCOLLISTER: Do they have condemnation authority? [LR272]

DEAN JOCHEM: I believe they do. [LR272]

SENATOR McCOLLISTER: Okay. [LR272]

DEAN JOCHEM: I believe. I didn't say I know for sure. [LR272]

SENATOR McCOLLISTER: And once the land goes in the control of the Park Service, it goes off the tax rolls. [LR272]

DEAN JOCHEM: I would assume that, yeah. [LR272]

SENATOR McCOLLISTER: Okay. Thank you. [LR272]

DEAN JOCHEM: The nearest thing that would be to that is we do have like a Fish and Wildlife in lieu of,... [LR272]

SENATOR McCOLLISTER: Uh-huh. [LR272]

DEAN JOCHEM: ...which is a pittance to what that taxes would actually be. [LR272]

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SENATOR McCOLLISTER: Thank you, sir. [LR272]

SENATOR SCHILZ: Thank you, Senator McCollister. Any other questions? Seeing none, thank you, Mr. Jochem. [LR272]

DEAN JOCHEM: I want to thank all of you for coming way out here. [LR272]

SENATOR SCHILZ: Way out here, yeah. It's our pleasure. [LR272]

DEAN JOCHEM: (Exhibit 5) Oh, can I mention one other thing? I'm just going to leave this. Jeff Scherer, some of you know him, he owns property on the Niobrara, where Plum Creek joins the river. He wanted really to be here. And he has served on the Niobrara Council for a period of time. And he couldn't be so he asked me if I could read this, and I won't. I'll just give it (inaudible). [LR272]

SENATOR SCHILZ: Just hand it to Barb and we'll get it entered in the record. [LR272]

DEAN JOCHEM: So anyway, this is testimony from him. [LR272]

SENATOR SCHILZ: Okay. Very good. Appreciate it. Thank you. Next testifier, please. [LR272]

RICH WALTERS: Morning. [LR272]

SENATOR SCHILZ: Good morning. Welcome. [LR272]

RICH WALTERS: Thank you. Thank you for coming up. My name is Rich Walters, R-i-c-h W-a-l-t-e-r-s. I serve as the director of conservation for the Nature Conservancy, so basically I oversee our lands in the state, the management that goes on with those states. Part of my duties is overseeing the jewel of the Niobrara Valley Preserve, which was mentioned earlier. We do have 5,600 acres in Brown, Cherry, Keya Paha County, 25 miles along the river that we manage in there. Just a couple things I want to point out, that we are a private landowner. We pay full taxes. We are treated just like every landowner as it revolves back to the council and the Park Service.

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And I do believe that the council local stakeholder is a very important concept to keep moving. There's some problems with that we've got to kind of fix. I don't know exactly what they are, maybe it's structure, maybe personnel, as been brought up. But I think that local stakeholder is very important as that sounding board, as you've heard all morning long. So I just want to relate that we think that's important. We've worked very well with the council, with the Park Service. Yeah, it can be a little better but it's a good process. We've just got to figure it out. The boundary comes up, the point I like to make is I think we do need an accepted boundary. The two boundaries, kind of the Park Service and state, does cause some problems if we start getting zoning authority for doing management practices and which one you need, what you don't need. I think it would be beneficial not only for money, for anything else, but to have one acceptable boundary we all work from is really hopefully what we can come out and obviously you guys are looking at through this interim study. So that's all I have. Any questions I can take? [LR272]

SENATOR SCHILZ: Thank you, sir. Any questions? [LR272]

SENATOR HAAR: Sure. [LR272]

SENATOR SCHILZ: Senator Haar. [LR272]

SENATOR HAAR: So from Nature Conservancy's standpoint, tell me about the benefit of having the council and having the federal government. [LR272]

RICH WALTERS: Sure. So when the Scenic River Act designated that, you know it did, it protected the jewel, it was mentioned, the Norden Dam, there was a lot of other things going on, a lot of historical social culture values of the river, you know, economic values to these small towns. And I grew up in Ainsworth, Brown County, so been around for a long time in this area. It was important to those to get formed I believe to protect that historical beauty of it, those six ecosystems that was mentioned earlier, you know, and it did that through the zoning, through what they do. So it did some great things in protecting where it's at. We've worked well with them. It's kind of the reasons why we own the ground we have there, is to protect some of those same resources and how we manage that. And our management scheme works well with the Park Service. I mean they're not...they're of a same, you know, so when we have to go there to do our

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management, they do affect us. We have to go get permitting. Say if we want to do tree thinning along the Niobrara corridor within that reach that they have jurisdiction, you have to go to the council to get that local stakeholder clearance of that, you know. So that's kind of the tie that we have with them. [LR272]

SENATOR HAAR: So of the various players here, you feel that the Conservancy is a good player. [LR272]

RICH WALTERS: (Laugh) I hope we are. You know, I'm sure this room has a lot of different opinions on the Conservancy and what we do in there. I hope we're a proactive player. You know, we, again, we pay our taxes. Our employees are all local employees that we have. We tenant out our ground to local tenants, meaning cattle in there. We value the local people, the local culture, and we want to fit in with that and it is what we do. So, yeah, we try to be cooperative as much as possible and work with the partnerships. And that's where, I think, the council is a very important entity to keep going, because it is that local partnership that can do a lot of great things for the river but also the communities around it. [LR272]

SENATOR HAAR: Okay. Thank you. [LR272]

SENATOR SCHILZ: Any other questions? Senator Friesen. [LR272]

SENATOR FRIESEN: Chairman Schilz. The Conservancy, when they purchase land, they're always working with a willing seller or at an auction or however. They have no condemnation powers or anything else. So they're always just a buyer and a willing seller coming together. And so the Nature Conservancy at times though you purchase land and hold it for a while and then you do sometimes sell ground to Game and Parks or Fish and Wildlife and (inaudible)... [LR272]

RICH WALTERS: We have in the past. [LR272]

SENATOR FRIESEN: ...in that resource. And so then that's...even though you may hold title to something today, two, three years from now if you see it being protected, you could sell it to the National Park Service or do whatever you would like. There's no... [LR272]

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RICH WALTERS: We're a private landowner just like everybody... [LR272]

SENATOR FRIESEN: You're a private landowner. [LR272]

RICH WALTERS: ...on the river. So absolutely, we could. We can sell ground and that. We have no plans to... [LR272]

SENATOR FRIESEN: Right. [LR272]

RICH WALTERS: ...(inaudible) but we're just like every other landowner along the river in that regard, exactly. [LR272]

SENATOR FRIESEN: But your land, you, your board, or whoever will decide at any point in time who to sell that ground to or what to do with it. [LR272]

RICH WALTERS: Correct. Yeah, we have a management board of Nebraskans that make those final decisions. [LR272]

SENATOR FRIESEN: So why did the National Park Service not want to protect more of the ground on your land? Do they feel it's protected forever. Or why did they stick to the quarter mile border there? [LR272]

RICH WALTERS: That would be a question for them to answer directly. From the Conservancy, when we buy ground, when we do and we sell other parcels outside the state that don't meet our complex needs, we do put protection on those grounds of some sort. And they vary a lot, if it's an easement or maybe it's a deed restriction. So there is some protection when we own ground. If we do go around and sell it, it will have some in those areas. [LR272]

SENATOR FRIESEN: The protection is just based upon what your board wishes to have on it. [LR272]

RICH WALTER: Yeah. And it's pretty broad scale usually in there, so. [LR272]

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SENATOR FRIESEN: Okay. Thank you. [LR272]

SENATOR SCHILZ: Thank you, Senator Friesen. Senator Davis. [LR272]

SENATOR DAVIS: Thank you, Senator Schilz. And thank you for coming. How long have you been with the Nature Conservancy? [LR272]

RICH WALTERS: Eight years now. [LR272]

SENATOR DAVIS: So do you know if the Nature Conservancy sat at the table when the new boundaries were put together? [LR272]

RICH WALTERS: I cannot answer that. Back in there, you know, we've been involved but we've kind of been on peripherally of the council. We don't sit at...we're not a member. [LR272]

SENATOR DAVIS: I know that. I just would like to know if the Nature Conservancy was included in the decision making when the new boundaries were put together. [LR272]

RICH WALTERS: Back in 2000 through 2006 time frame in there? [LR272]

SENATOR DAVIS: Uh-huh, yeah. [LR272]

RICH WALTERS: You know, I did not work for them at that time so I can't answer that. With our conservation partners we usually get involved in those type of discussions that happen on. So I would make a pretty safe assumption we were involved to some degree but I just can't tell you what degree that was. [LR272]

SENATOR DAVIS: If you were able to find that out and let the committee know, I think that might be (inaudible) information. [LR272]

RICH WALTERS: I can look at you. Okay. Sure. [LR272]

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SENATOR SCHILZ: Thank you, Senator Davis. Sir, thanks. I just have one question as a we sit here and we talk about this. And obviously, the majority of the conversation has fallen upon the boundaries. But it wouldn't just have...necessarily have to be the boundaries. As I understand through listening to the conversation so far, those boundaries were, the new boundaries that the Park Service has, were developed first because of a lawsuit that somebody, whoever "somebody" is, that had standing was able to take to federal court and say, hey, something is not happening properly there. That's my understanding. If...and if I'm wrong, somebody can surely tell me and that would be fine. The question is, do you believe that that threat of those kind of objections and those kind of challenges, is it still out there? Are there people that would like to see further change on the river? And is...do you see that that is a possibility? [LR272]

RICH WALTERS: Help me understand "further change." [LR272]

SENATOR SCHILZ: Who knows? You tell me who can sue for what and I'll tell you what it might be. [LR272]

RICH WALTERS: I mean, and so, yeah, it's an interesting question, what "change" means, right? I mean are we talking development along the banks that would change the whole scenic view for thousands and thousands of visitors every year? I don't know. I mean I think that would probably be a negative for the state of Nebraska, for the local economy. So that protection is a good thing. Change as in management, meaning to keep it and get rid of invasive species. And we heard some of that was from proactive stuff. Cedar encroachment is a major problem, you know, prescribed fire (inaudible) to try to protect from the wildfires. Had 2012 you know was a catastrophe. We want to prevent that from happening again. That's all "change." So that's where I'm struggling with what you meant by "change" because... [LR272]

SENATOR SCHILZ: Well, I'm... [LR272]

RICH WALTERS: ...some is good;... [LR272]

SENATOR SCHILZ: Right. [LR272]

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RICH WALTERS: ...some is bad. [LR272]

SENATOR SCHILZ: Absolutely. And what I mean by that is let's say somebody is out there looking at it, looking at the situation. Let's take the fires of 2012. And they say, well, the service and/or whoever is supposed to be protecting those acres or managing those acres isn't doing their job because they didn't thin out the trees, they didn't worry about prescribed burns and things like that, that it would have happened naturally. We're going to sue to make sure that's fixed in the future. Are there problems and issues like that you think could still come up? [LR272]

RICH WALTERS: I can't that I've heard no rumblings of that going on, so. [LR272]

SENATOR SCHILZ: I appreciate that. It's...yeah, I understand. And the only reason that it wasn't...I asked you because you're one of the ones that sits there as a landowner on the thing that has a little different perspective than some folks. [LR272]

RICH WALTERS: Sure. I mean we like to see management done for a variety of reasons. They keep the ecosystems in there. But again, that's an individual landowner,... [LR272]

SENATOR SCHILZ: Sure. [LR272]

RICH WALTERS: ...their right to decide what they do or don't do on their ground in that... [LR272]

SENATOR SCHILZ: Right. Okay. [LR272]

RICH WALTERS: ...so it's... [LR272]

SENATOR SCHILZ: Absolutely. But it is to a point, until somebody, through a court action or something, decides it's not. And I think that that's what everybody here is worried about. And I think that's a valid concern. Senator McCollister. [LR272]

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SENATOR McCOLLISTER: One more question: The Park Service management plan. You may not have been around when they worked on the boundaries, but have you reviewed that management plan and would you care to comment on it? [LR272]

RICH WALTERS: You mean the alternatives, basically, the...or the... [LR272]

SENATOR McCOLLISTER: Yeah. Just their objectives and some of their perspectives on the river. [LR272]

RICH WALTERS: So two things: I've reviewed it briefly. You know, it's a big document and a lot to go through there,... [LR272]

SENATOR McCOLLISTER: Uh-huh. [LR272]

RICH WALTERS: ...so I have not, with a fine-toothed comb, by no means. My experience managing the preserve, working with them, I mean I believe the objectives are very much in line with sound management based on science (inaudible) management for the river, meaning, you know, river flows and cedar encroachment, maintaining the diversity of wildlife flora and fauna along the corridor for the state. So I don't have the details I think you're asking for, but the general scope, I think, is all in alignment with sound science and the management philosophies. [LR272]

SENATOR McCOLLISTER: Thank you. [LR272]

SENATOR SCHILZ: Thank you. Senator Haar. [LR272]

SENATOR HAAR: Yeah. You said that you're a landowner, just like anybody else. Not everybody quite agrees with that. Could you enlighten me on that issue (inaudible)? [LR272]

RICH WALTERS: Absolutely, yeah. So what I meant by that is a willing seller, willing buyer. When we buy ground, we pay full taxes. We don't pay in lieu. We pay full tax that is assessed by the county. We choose to do that. I mean we're a 503 proper nonprofit. But we choose and we

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always will, it's mandated, we will pay full taxes. And that's what I meant by that. I think some people are concerned that we don't pay taxes; we do. We pay everything that a regular landowner does. We...it's a working ranch, we graze cattle on it. We have the same struggles as infrastructure, windmills, fences, land management, equipment that other landowners have. We may be a big organization but as it comes down to the state and then local on the preserve, we operate as a private landowner. But the taxes, I think, is the biggest thing. [LR272]

SENATOR HAAR: You think that's the biggest misperception? [LR272]

RICH WALTERS: Well, I think there's a variety of them on what our goals are, you know, and so I worked in the Conservancy for seven years. I managed the preserve now for three. I grew up in there. I grew up in Ainsworth. I know a lot of these locals around there so I can go and have, I think, pretty frank conversations with them. I think we've got different reputation with different people. But if you get to see what we're doing, we're basically trying to manage our ground for conservation and economics. And we're trying to be a demonstration site where other landowners can come learn from us, you know, because we can do things that we can take a risk maybe on doing some different practices. So that's a little difference. You know, why you doing that type of grazing regime, for example. We're trying to experiment can it still maintain cattle gains plus conservation goals, so that's some difference in there. But in general, yeah, that's what I meant by we're the standard landowner by paying taxes and we're working off the ground. Our salaries are paid from the ground that we manage, so we got to make sure it makes money. [LR272]

SENATOR HAAR: Okay. And then in the management plan, on page 7, it starts off, the public involvement, on page 8 actually. Now we don't know exactly what this means but the audience is included when the Park Service presented its determinations and its new boundaries and so on. Actually, the Nature Conservancy is one of those that says audience is included. And then it goes on to list all the issues that came up. And do you think then that this...the final decision was kind of everybody sit down and come to an agreement, or did the Park Service probably make the...the National Park Service make the final determination? [LR272]

RICH WALTERS: I can't answer. [LR272]

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SENATOR HAAR: Maybe you can't answer to how that's done. [LR272]

RICH WALTERS: I can't answer that. I mean I know what I'd hope would happen with that cooperation and, you know, and that. But I can't answer that, what...I was not there. [LR272]

SENATOR HAAR: The Nature Conservancy was part of that. [LR272]

RICH WALTERS: I mean I can find out kind of, back to your question I think, and find out exactly how (inaudible) that. [LR272]

SENATOR HAAR: Yeah, I would be interested to know (inaudible). [LR272]

RICH WALTERS: I could definitely find that out from my state director. [LR272]

SENATOR HAAR: Okay. [LR272]

SENATOR SCHILZ: Senator Schnoor. [LR272]

SENATOR SCHNOOR: You had referred or you talked about the Nature Conservancy is the same as any landowner. And I guess I would...I just have to completely disagree. You have an organization that comes in and buys land with more than likely donated money. I'm not saying that you're managing improperly. But the differences are unbelievable because you have a family that owns a ranch and you have an organization. There's the main difference. But the big red flag I see is when...and obviously our number one concern here is the boundaries. The huge red flag I see is when the federal government comes in, establishes boundaries. They go onto private land and they go way up onto their land. But they come to the Nature Conservancy and they go down to the border of the river and they totally bypass the Nature Conservancy. Then they get by you, they go up to the private land, and they go everywhere else. Don't you see a huge red flag of the concern of the private landowner? And but yet you're saying you are...you are the same. And I understand you're the same as far as paying taxes, but I, honestly, don't see anything near the same as a personal property owner. [LR272]

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RICH WALTERS: So kind of two points there. The first one, be happy to talk to you probably outside of this meeting on how we manage our ground with our beginning farmer program and rancher program, of working with the guys to get them...we're trying to really create that local farmer/rancher back on the landscape because we think they're missing. [LR272]

SENATOR SCHNOOR: Uh-huh. [LR272]

RICH WALTERS: They're starting to get big and we want to keep that. And I can demonstrate those on our western, but I think that's outside of this meeting. [LR272]

SENATOR SCHNOOR: Yep. [LR272]

RICH WALTERS: Now as far as the boundary on our land, again, I wasn't at that table, and that alludes back to the same question I believe that you guys were asking, is our involvement in what...if we had involvement in that. You know, it was testified earlier how that decision was made based on scenic views, historical cultural references, you know, ecological systems on that. As I mentioned earlier, the biggest differences I think that you point out is when we buy ground, if we do sell it, it will have some protection on it. I think that's kind of what you're getting at, right? And did that play into effect when this boundary was established, I don't know. I wasn't there. But I think, at the end of the day, I think that's probably what you're alluding to, is that no matter what we do when we sell our ground, as I said, it will be protected to some degree, which will protect those resources. And that is the difference, absolutely. Now a private landowner can choose to do that if they wish. It's their right. But through our mission we will do that for sure. And that has been known by all parties involved when they negotiate those boundaries, I'm sure, so. But I cannot speak if that was part of that boundary or not. I apologize for that. [LR272]

SENATOR SCHNOOR: I understand. Thank you. [LR272]

SENATOR SCHILZ: Thank you, Senator Schnoor. Senator Davis. [LR272]

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SENATOR DAVIS: Just to follow up on that question, is there anything in policy with the Nature Conservancy that says that that is the policy of Nature Conservancy, that they will leave easements or restrictions in place? Because I don't think there is. [LR272]

RICH WALTERS: And I have to state there is. It's now...there is some latitude on the parcel and its meaning in that and stuff. But from my understanding, when we do that in our current philosophy in that it's our mission. A lot of that is our intent and that, so. [LR272]

SENATOR DAVIS: Well, that may be different. There has been property sold in Cherry County that did not have that. [LR272]

RICH WALTERS: In the past. [LR272]

SENATOR DAVIS: In the past. [LR272]

RICH WALTERS: Yeah. [LR272]

SENATOR DAVIS: Which to me says it could happen again. [LR272]

RICH WALTERS: Certain circumstances, it probably can, but... [LR272]

SENATOR DAVIS: You know, so I think Senator Schnoor's question is a very legitimate question as to why the boundary was moved to the edge of the river and reached out into private property. [LR272]

RICH WALTERS: You know, that might be a great question for the Park Service. I mean I have no...again, it's a great question, I agree with you. I just cannot answer it. [LR272]

SENATOR DAVIS: Thank you. [LR272]

SENATOR SCHILZ: Thank you, Senator Davis. Any other questions? Seeing none, thank you very much for your testimony. [LR272]

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RICH WALTERS: Thank you. [LR272]

SENATOR SCHILZ: Further testimony. [LR272]

MIKE MURPHY: Morning, Senators. My name is Mike Murphy. I want to thank you guys for the opportunity to provide everybody that's here an opportunity to come. This is so important. Most the time we got to travel to Lincoln. And people here in attendance, landowners, thank you for coming. [LR272]

SENATOR HAAR: Could you spell your name for me? [LR272]

MIKE MURPHY: M-i-k-e... [LR272]

SENATOR HAAR: Okay. [LR272]

MIKE MURPHY: ...M-u-r-p-h-y. I represent, I'm general manager of the Middle Niobrara Natural Resources District. I have been appointed by our board and the Governor to sit on the Niobrara Council, private landowner in north-central Cherry County. And I think it's become very evident today that we have the resources, the scenic values in north-central Nebraska that have been here because of private landownership. And if it wasn't for that private landownership and care and trust and respect of that resource, we wouldn't have it. But because that is there, we will continue to have it. It isn't because the Park Service is here. The Park Service was put here after they were told to be here because of a stop...to stop the Norden Dam project. The Park Service testified that they didn't support the original designation of the scenic river. They're here. You can't draw a line on scenic value, scenic boundary. That's what happened. We drew a line in the sand. Yes, we can draw a line on private property ownership, but my property, your property, anybody's property in here, we can all view as scenic or have extraordinary values. And that's what we're trying to do here is draw a line in the sand and then manage one side or the other. There's always going to be somebody that's happy with how it's managed or somebody that wants it done differently. We've heard talk today, black and white resources management. That's how a previous superintendent viewed it. You can't manage resources black and white, people. We can't go out and farm the same field the same way every year. We can't go out and graze the

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same way. We can't manage our forests the same way. It's not even feasible. This Niobrara Council has been able to do some spectacular things with very limited funding. Their educational aspects, their outreach trying to involve the local constituents and landowners on limited funds has been extraordinary. We can only hope that the Park Service steps up to the plate and provides that opportunity if they want to continue to be here and be a partner to be recognized. At the end of the day, we can't tell people what to do with your own property, but that's what they're, the Park Service, is trying to tell them. You need to get a permit if you want to use your property. You need to do this. Why do we need to get a federal permit to use our own property? I don't need a permit to go use my property. You know, I pay taxes, everybody else does. We don't need those roadblocks in land resources management. It comes back to pride, ownership, and stewardship. And as long as we can maintain that private ownership, we'll have these scenic values forever, guys. We don't need a National Park Service to have us have those values. I want to be able to say 100 years from now we'll still have farming, ranching, recreation here, not something that we have people come and say, boy, what did they used to do here? So if the council is a roadblock to the Park Service, I'm sorry, but it's because those local people care, plain and simple. So that's all I want to say. [LR272]

SENATOR SCHILZ: Thank you, Mike. Any questions? Senator Haar. [LR272]

SENATOR HAAR: Yes. Are the views you've expressed those of you personally or of the NRD? Did you take a vote on... [LR272]

MIKE MURPHY: We haven't. But it's an overview of the many years of the natural resources district's involvement in the scenic river development. As been stated, there was plans put together with the counties and the NRDs pre-scenic river times, the private ownership, the private landowners that we worked with on a daily basis throughout the year that expressed their thoughts, And we have the tools in place locally to work within the system and allow landowners to maintain and protect the resources, or utilize the resources to their availability. And that's just an aspect of the natural resources districts. We're here to protect all aspects of fish, wildlife, recreation, private ownership, agriculture, water use, on down the line. Those are the legislative requirements of natural resources districts. [LR272]

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SENATOR HAAR: And of course you know that not all people...or that some people at least feel that's an overreach that we've given to the NRDs. [LR272]

MIKE MURPHY: Fortunately though, our local officials are locally elected and those are elections that occur. And if people want to have more involvement on a local level, they have that opportunity to run for those boards. In our boards across the state and locally are great diverse aspects of individuals. From teachers, farmers, ranchers, bankers, professional individuals, college. You know, expertise people make up a wide variety of constituents of NRD board members. [LR272]

SENATOR HAAR: Right. And I think it's a great system. I really (inaudible). [LR272]

MIKE MURPHY: We enjoy it. [LR272]

SENATOR HAAR: In fact, we're leaders in the country in terms of our water management because of the NRDs, and I'm proud of that. If...you know, we're here because the Legislature created the Niobrara Council and so we have a responsibility for oversight and that's the way I look at it. And I think you're going to see more and more from the Legislature the recognition of this thing of oversight of things we've created. In many cases, we just sort of let them go and never look back, and then we find it's necessary to look at them. And we also created NRDs, of course, and we have some oversight responsibility to them. Do you think that if the charge of management partnership that was given to, and in cooperation it was given the bill that created the Niobrara Council, that for example if the Park Service would back out of that, should we continue with the Niobrara Council? Or if they're operating in two separate silos, what would be your opinion on that? [LR272]

MIKE MURPHY: I think you would see that continue because our counties, our NRDs, our landowners, we all work together already. This was just an easy format for the Park Service to come to one group. Doesn't mean we're all going to be in agreement. Doesn't mean we're going to have uniform county zoning requirements or different needs. But the counties and the NRDs were doing that pre-1991. So do we have to go after potentially different funding? Yeah, maybe we do. You know, nobody wants to have a new tax, but if that's what it comes down to is

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continuing to enhance and manage your resources more wisely and properly. And if it means coming up with alternate funding, then that's what will have to happen. Like I said, this land will be here 100 years, 200 years from now, and so will these wonderful resources. It's not going to be because a federal agency tells us how to manage our land. [LR272]

SENATOR HAAR: Okay. Thank you. [LR272]

SENATOR SCHILZ: Thank you. Senator Schnoor. [LR272]

SENATOR SCHNOOR: Thanks, Mike. I missed the first part of your presentation but I guess I'll ask you this, and maybe you said this or maybe you didn't. But from an NRD's perspective, do you have any idea why the federal government came in and reestablished new boundaries and just extended them out further? [LR272]

MIKE MURPHY: It was environmental groups that challenged the Park Service on their maintenance and protection of the resources and the intrinsic values. And it would be no different than if they wanted to challenge them again on whether they've actually accomplished something since 1991. I think a lot of local people would say the main thing that they've accomplished is more rules and regulation. I don't know if we can document that they've truly enhanced or protected the resources. You know, we've had a couple major catastrophic wildfires, 2012, astronomical. Some people may say that was a loss to scenic values; some people may consider it an enhancement to scenic values. It definitely enhanced the grasslands. It reduced the fuels threat, potentially reduced a bunch of eastern red cedar encroachment. The opportunities aren't black and white, which is what I said. It's how you view them. If...you got to take and turn those opportunities into enhancements, and that's what I think the council and both the Park Service want is to provide those opportunities to enhancements. But by coming in and trying to force or mandate private property individuals and ownership to do things doesn't...it's going to always create a rub, just like every landowner will do things on their own time, depending on finances or what their view of scenic or what their needs are. And that stuff all...that's what's great about being a private landowner. You can make those decisions on your own. [LR272]

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SENATOR SCHNOOR: Do you think...who do you feel is going to do a better job of managing those resources: the Game and Parks Commission (sic), the Niobrara Scenic River Council, or a private landowner? [LR272]

MIKE MURPHY: Private landowner, plain and simple, because they're on the land. They have that tie and that connection to the land. If they're on that land, if they don't take care of it they're not going to be there very long, especially if they're in any type of agriculture: farming, ranching, production. Yes, we could have some absentee landowners that come and enjoy it. But they want to maintain that land for their use and their enjoyment too. If they don't maintain it, it's not going to be there. So having an extra step or an extra requirement in the process to say this is what you need to do to maintain scenic values is just one extra step. [LR272]

SENATOR SCHNOOR: Okay. My last questions, you know, I asked Dean Jochem this but, you know, the purpose of this resolution is to study five areas. You know, the qualifications, do you see any issues with the qualifications of people serving on the council from an NRD perspective or from your own perspective personally? [LR272]

MIKE MURPHY: It's a good cross-sectional representation of landowners, agencies, environmental groups, outfitters that...with local people. You know, In the past we've had some representation from outside of the local area. Does that give the outside people or the environmental groups that are outside the Niobrara corridor a voice? Maybe. But it didn't portray what...the local people involvement in it. [LR272]

SENATOR SCHNOOR: Okay. What about are you familiar with appointing people to the council at all? [LR272]

MIKE MURPHY: Yeah, those we worked with Senator Davis and Senator Larson-- unfortunately, Senator Larson isn't able to be here today--you know, to make some little changes. There were some things in the past that the council members, due to the way the wording in the statutes language were, that if the county commissioners or the NRD representatives had taken action on it, that then when you come to a council meeting we couldn't...you couldn't vote. So we've worked with you guys and we made those little minor changes. As far as appointments,

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you know, if we had to go that extra step and have you guys sign off on the Governor's appointment, we'd have some vacancies that would continue to be vacant for a long time, or have to wait till you guys come back in the Legislature. We had a forestry rep that stepped down and was advertised and then advertised again because the previous Governor wanted at least three names to be submitted. Well, sometimes it's hard to come up with three names. The county commissioners, you know, searched. Kalli put the advertisement out requesting names. I think we finally came up with two names for the Governor to choose from. But that was July-August. And then if we would have had to wait until the legislative session started back up in January, that position would have sat open for another six months. That ain't doing justice either.

[LR272]

SENATOR SCHNOOR: Okay. Do you feel the council has always acted within their authority to do their job? [LR272]

MIKE MURPHY: I do. That's the good aspects of having legal counsel present. You know, it comes with a cost but Warren has been involved with the council for a very long time. And if the council had issues with what our parameters of the state statutes and the laws were, we, fortunately, we could refer to our legal counsel. And at times we've even asked the Attorney General's Office for an Opinion to make sure that we were within those confines. [LR272]

SENATOR SCHNOOR: Okay. You know, and then we're obviously talking...we have talked a lot about the boundary dispute, but are there any other issues with the council from your perspective or from an NRD's perspective that you would like to see changed? [LR272]

MIKE MURPHY: You know, the council is always going to have some new issues that develop. Right now it just happens to be this one with a federal request for buying some property on the scenic river. Is it right? Is it wrong? That's a decision that will have to be made. You know, it's a willing selling, willing buyer. Dollar amounts don't make any sense to most of the local people, but the federal government doesn't make sense to most of the people of the United States at this point. You know, at heart, Kerry (phonetic) sitting in the audience, his intentions are good to provide some public access and continued use of that resource at the bottom end of the stream. Is the Park Service the best owner? I don't know. Is there other alternatives? Yeah, I think there is.

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Do we have some potential flexibility with the new superintendent? Yeah, I think we do. Is the council the entity to have, you know, ownership of something like that? At this point, I'd probably have to say no because they don't have the funding to manage property. But it doesn't mean that that can't change. Those opportunities can always change. [LR272]

SENATOR SCHNOOR: Okay. Thanks, Mike. [LR272]

SENATOR SCHILZ: Senator Friesen. [LR272]

SENATOR FRIESEN: Thank you, Chairman. So when the scenic river was first established, they used a quarter mile from the banks of the river as the established corridor that would be protected, and those property owners, were they willing partners in this, most of them, the majority? [LR272]

MIKE MURPHY: Yeah, majority of them accepted that. This goes back before my time, Senator, but... [LR272]

SENATOR FRIESEN: Yeah. [LR272]

MIKE MURPHY: ...you know I think everybody could recognize that importance. You know, by and large, if the Norden Dam project would have moved forward, other than having a dam in there and creating other recreational opportunities and a steady flow of river down, it would have impacted a handful of landowners on the change of that. So ultimately, most of them were...most of the local people at the time, my understanding was, were against the scenic river designation. But once the congressional folks passed it, it's kind of hard to continue to fight. [LR272]

SENATOR FRIESEN: There was no compensation given either for that? [LR272]

MIKE MURPHY: To my knowledge, no. [LR272]

SENATOR FRIESEN: So it was a donated easement, so to speak, to the National Park Service. [LR272]

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MIKE MURPHY: There was some land left for the dam that was left in the Bureau of Reclamation. And somewhere in the last year and a half, that ownership of that land has transferred to the National Park Service. So officially now within that 76-mile stretch, the Park Service actually owns a little bit of land now. [LR272]

SENATOR FRIESEN: And so then they want to change the boundaries now. And we keep talking about how they cooperate with the council. And what partnership was there when they chose these new boundaries with the council? Did they consult with you? Did they ask you what you guys thought... [LR272]

MIKE MURPHY: They... [LR272]

SENATOR FRIESEN: ...and then they... [LR272]

MIKE MURPHY: ...they go through that hearing process. You know, if anybody has been through any of the NEPA processes or anything, they're pretty rubber...they have a process. You're going to follow through it. They're going to take comment. They're going to take, you know, criticism, whatever else. I think a lot of that stuff is even published in the management plan. Does it mean they're going to follow to the tee what everybody says? No. But on the flip side what happened was they made a decision and then there were some people or environmental groups that weren't happy with it, so that's why they got challenged. At some point, maybe it gets challenged again. You're never going to make everybody happy, and that's the problem with drawing that line in the sand of what we consider scenic. To me, the entire north-central Nebraska is scenic, but do I want to have federal oversight on all that? No. [LR272]

SENATOR FRIESEN: That's kind of what I'm getting at. I mean when they arbitrarily change the boundaries like this and, you're right, they could come back ten years from now and change them again, and at that point, I mean landowners don't receive compensation for this and they do have more controls put on them. They have to follow more rules and yet there is no compensation. It's just a...it is...seems to me to be a little bit of a land grab from the federal government's side. And I've always thought the local control...and it seems like the local people here do care about what they have. And the NRD system that we've built and everything else that

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we've...the county zoning, you've all shown me you've done that. And so that's why I'm reluctant to hand over more control to the federal government when it seems to be that what we're doing is working. [LR272]

MIKE MURPHY: You're on the right page because that's, I think, everybody's in this room concern, whether you're for the boundary change or not. I think even the Park Service themselves would not want more federal control. [LR272]

SENATOR SCHILZ: Thank you. Senator Haar. [LR272]

SENATOR HAAR: You know, some of the issues we've been talking about here whenever the government steps in there are people who are happy and unhappy. There are winners and losers, obviously. Doesn't that happen with the NRDs as well in some of the decisions you make? [LR272]

MIKE MURPHY: Board members have tough decisions, especially when it comes to water management. You know, going out, planting trees and doing the positive things, them are easy. But when you've got to put allocations or restrictions or tell somebody you can't drill a well, yeah, that's tough, because that impacts your neighbor. That impacts somebody's livelihoods, and that's what we're talking about here. We're talking about impacting people's livelihoods that own land on the river, off the river, the communities, and everything else that's involved with the scenic river. We don't mind having 30,000-40,000 people come to town, but don't tell the people that are doing it how to manage it. [LR272]

SENATOR HAAR: So again, going back to the management plan where it talks about the input, public involvement, and issues identified, it says here the Middle Niobrara and Lower Niobrara Natural Resources Districts particularly challenge the National Park Service's preliminary assessment of the viability of the Cornell Dam and both groups resolve for its preservation. What happened on that issue? [LR272]

MIKE MURPHY: It's still there. It's on U.S. Fish and Wildlife Service property. Back in the day, that was the close access to town for the public to go out and utilize and put in on the river and

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enjoy the river. A lot of swimming and stuff took place below the dam. It actually was one of the very first natural resources development commission projects funded back in 1991 to develop public access. That agreement is set to expire in April of next year. We've been recently told by the Fort Niobrara Fish and Wildlife Service superintendent that he's not going to renew that agreement for public access. That was state dollars, local taxpayer dollars spent for public access there. That dam, yes, it's not been used for years but what it's done is create a very in-depth water hydrology streambed that has helped stop the all the upstream streams from continuing to cut and degrade, and maintain our ground water levels, which is what it provides our surface water flows that we have today. If we didn't have the ground water that we have in north-central Nebraska, we don't have the Niobrara or the Niobrara flows that we have. And that's the beauty of this is we are blessed with water. [LR272]

SENATOR HAAR: We are. [LR272]

MIKE MURPHY: But how do we continue to utilize it locally for all uses, not just for... [LR272]

SENATOR HAAR: So we have the NRDs. [LR272]

MIKE MURPHY: Thank you, sir. We appreciate it too. [LR272]

SENATOR HAAR: Thank you. [LR272]

SENATOR SCHILZ: Senator McCollister. [LR272]

SENATOR McCOLLISTER: You're talking about the Fort Niobrara situation. Do you have any advice for the state Legislature on how to deal with that, that problem? Because the state allocated money for that access point, and yet it sounds as though that particular federal entity isn't respecting that. [LR272]

MIKE MURPHY: I, you know, I think it should be an easy fix. The new resources development projects, you know, are now 50-year agreements. These were the first ones. They were 25-year agreements. I think everybody in the room doesn't mind having public access. I think the Park

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Service, we've talked together, we should be able to come up with a local solution to maintain public...we're not, you know, we've never told them how they manage the property. Yes, the Resources Commission asked them to maintain signage of where the funding came from. But those are established parking lots, bathrooms, ramps for people to get on the river. I don't think we want to see them necessarily go away. [LR272]

SENATOR McCOLLISTER: Does that federal agency have full discretionary authority or is there some kind of process that we could employ that would mitigate or at least change that outcome? [LR272]

MIKE MURPHY: It's kind of like private property. It's there. They own the land so ultimately they're going to be able to do what they want to do. [LR272]

SENATOR McCOLLISTER: One more question on that. On the easements, when the quarter-mile designation occurred, what was the nature of those easements that the federal government gave the landowners? Did that limit any of their activities at all or is it...? It obviously didn't give them ownership. [LR272]

MIKE MURPHY: No. It basically put that there was a uniqueness within that area to preserve it. And I think everybody recognized that. Otherwise, to my knowledge, no, Senator. [LR272]

SENATOR McCOLLISTER: Did it give them a favored position in the event of a sale? [LR272]

MIKE MURPHY: I'm going to have to probably step outside of my boundaries. This is probably a better question for some of the actual landowners. But you would have seen value...acreage land values change because of that designation. Previously, a lot of that canyon ground was unwanted ground because it wasn't the most productive grazing ground. And then... [LR272]

SENATOR McCOLLISTER: So you're saying that designation lowered property values? [LR272]

MIKE MURPHY: No, increased property values... [LR272]

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SENATOR McCOLLISTER: Okay. [LR272]

MIKE MURPHY: ...and brought an increase in those sales. So for...yeah. But with that came also increased taxes that those same people had to pay. [LR272]

SENATOR McCOLLISTER: Thanks, Mike. [LR272]

MIKE MURPHY: Yeah. [LR272]

SENATOR SCHILZ: Senator Schnoor. [LR272]

SENATOR SCHNOOR: I don't think I asked you this or we haven't any clarification here, but do you think...and I haven't heard from anybody yet any valid reason why the boundaries were established. Do you have any knowledge from your perspective of why boundaries were changed? [LR272]

MIKE MURPHY: Simply due to the fact that a few entities felt that the Park Service was not doing their job in managing the historic cultural values of the scenic river, plain and simple. [LR272]

SENATOR SCHNOOR: Okay. [LR272]

SENATOR SCHILZ: Senator Haar. [LR272]

SENATOR HAAR: Now my understanding though, just to clarify that somewhat, is that those were court orders. It was not somebody from the Park Service saying,... [LR272]

SENATOR SCHILZ: Correct. [LR272]

SENATOR HAAR: ...hey, we ought to change the boundary. Those were (inaudible). [LR272]

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MIKE MURPHY: They went out and helped identify them. And Steve could answer better this question. You know, Pam alluded to some of this. You know, you can drive that river road and identify what you may perceive as, you know, special or intrinsic values. You know, the uniqueness of the different ecosystems that come together, you know, it is a centralized location of a wonderful resource. [LR272]

SENATOR HAAR: Uh-huh. Well, you know, a lot of this is about who's doing what to whom, and then again in the management plan it says, in a separate lengthy litigation, an Omaha businessman challenged the matter in which the National Park Service had determined the boundary for the national scenic river. And then the Eighth Circuit Court ordered the service to redraw the scenic river boundary. Do you know anything about that Omaha businessman's challenge? [LR272]

MIKE MURPHY: That was before my time. And I think there's probably...well, I know there's people in this room that can answer that question, Senator. But if you got enough money to fight them, things can happen. [LR272]

SENATOR HAAR: It's probably something we need to find out for this study is a little more detail on that. Thank you. [LR272]

SENATOR SCHILZ: Senator Lindstrom. [LR272]

SENATOR LINDSTROM: Mike, in your opinion, if the council does not accept or adopt the 2007 boundaries, what do you think the chances are that the Park Service cuts the \$100,000 funding? [LR272]

MIKE MURPHY: I think they need the council just as much as what the council needs the Park Service. But that's a question you need to ask the new superintendent. [LR272]

SENATOR LINDSTROM: All right. Thank you. [LR272]

SENATOR SCHILZ: Okay. [LR272]

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SENATOR HAAR: Good question. [LR272]

SENATOR SCHILZ: Senator Davis. [LR272]

SENATOR DAVIS: Mike, I want to just take you back a few years when I was running for office and attended some of your meetings here. And basically, as I recall it, the superintendent at the time put the hammer down and said either you get this done or we're defunding it. [LR272]

MIKE MURPHY: Correct. [LR272]

SENATOR DAVIS: So how was that received by the council? [LR272]

MIKE MURPHY: The council had a very long time period there of creating specific budget items dollarwise, putting dollar amounts in priorities for roads, bridges, cedar tree field management, a whole list of stuff, and said this is what we view as our needs and our priorities; where do you guys want to jump in and help? [LR272]

SENATOR DAVIS: So ultimately, when the change in the boundaries did not happen, the Legislature of 2013, what happened at that point? Were you defunded? [LR272]

MIKE MURPHY: No. [LR272]

SENATOR DAVIS: So we've heard from people that members of the council are disrespectful and not appreciating them. Is there any validity to that claim? [LR272]

MIKE MURPHY: As any board, you have tough decisions to make and that's why you take a vote. They've not been all 100 percent yeas or nays. You know, there's always different things that each one of us that sits on that council have to take into consideration when we vote: how it impacts us whether it's, you know, directly impacts us or our neighbor. [LR272]

SENATOR DAVIS: So when you have your meetings, how much time is spent discussing the boundary issue? [LR272]

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MIKE MURPHY: Actually, I mean the council took action on it, you know, prior to the legislative session of this stuff coming up just so we'd have clarity, and this council wants to maintain that local boundary, that state-recognized boundary. [LR272]

SENATOR DAVIS: So it's not an issue that's discussed at length at every... [LR272]

MIKE MURPHY: If we got to worry about where we spend money or how something gets done, we've got some other issues. You know, I mean that's why I say because as soon as you have that line, somebody is going to go and build a house right outside of that boundary. Well,... [LR272]

SENATOR DAVIS: So in addition to the identification of a potential purchase of Rocky Ford, there was another piece of acreage that was included in the president's... [LR272]

MIKE MURPHY: Request? [LR272]

SENATOR DAVIS: ...document request. Has that ever been identified? [LR272]

MIKE MURPHY: No, it has not. [LR272]

SENATOR DAVIS: And why is that? [LR272]

MIKE MURPHY: I think at the time, and this is a question for the superintendent, but I think there was, just as in the general management plan, it says they can own up to X amount of acres of property, and I think they feel that that extra acres would fit within that domain of those additional acres that the Park Service could own. [LR272]

SENATOR DAVIS: But it's not been identified as to whether it's in or out of the corridor. [LR272]

MIKE MURPHY: Not to the council. [LR272]

SENATOR DAVIS: Okay. Thank you. [LR272]

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SENATOR SCHILZ: Thank you. Thank you, sir, for your testimony. [LR272]

MIKE MURPHY: Thank you, Senators. Appreciate it. [LR272]

SENATOR SCHILZ: One more thing: We've got about a half hour scheduled yet. I just want to see a show of hands again of folks that still want to testify. One, two, okay. You, sir? Okay. All right. I know that we've talked about having questions for the superintendent of the Park Service, so why don't we please ask him to come forward after this testifier. [LR272]

_____ : He can go ahead. [LR272]

SENATOR SCHILZ: Okay. If you...come on up. We'll make it work. And we'll just...I know you're not here for official testimony but... [LR272]

STEVE THEDE: (Inaudible) Actually, I don't think I'll sit there just because I'm free to answer questions (inaudible) but I'm ethically bound not to make comment on anything that's associated with legislation (inaudible) federally or with the state. So I've got to maybe...I want to keep my job (laughter), so I will be happy to answer questions. In terms of asking my opinion on, you know, what would the Park Service do, I'm going to...some of those I'm just going to have to say I don't know. [LR272]

SENATOR SCHILZ: And that we completely understand. No problem. [LR272]

STEVE THEDE: So I'm here for you. I don't want to say fire away, but I guess that's a good way to put it. [LR272]

SENATOR SCHILZ: Yeah. [LR272]

SENATOR McCOLLISTER: I've got a question. [LR272]

SENATOR SCHILZ: Yeah. If you could just say your name for the record. [LR272]

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STEVE THEDE: Oh. My name is Steve Thede and I am the superintendent at Niobrara National Scenic River. I've been here for about a little over a year and a half, so. [LR272]

SENATOR SCHILZ: And can you please spell that for us. [LR272]

STEVE THEDE: Oh. Last name is Thede, T-h-e-d-e, and Steve is Steve. [LR272]

SENATOR SCHILZ: Thank you. Okay. Any questions for him? Senator McCollister. [LR272]

SENATOR McCOLLISTER: A simple question: Is there a new management plan in development right now? [LR272]

STEVE THEDE: No, and actually I'm glad you did ask that. Now maybe I'm (inaudible) but, you know, this was a one-time deal. When the national scenic river was created, what they said in that legislation was that you will develop a general management plan and in that general management plan you will set aside (inaudible), you will define a boundary based on these values. Well, they did that. In 1996 they came up with that plan. They were supposed to do it in three years. Took them a little longer. But then that was declared null and void so they said go back, do it again. So there is no process, you know, new general management plans are not being done any longer. You know, within the Park Service it's not. We're looking at different ways of...they call them foundation documents now but it's just trying to figure out what guidelines are you supposed to use, manager, to manage this area or do the best you can with that. So there is no new general management plan on the horizon. I don't think there will ever be one. And in terms of if we were looking at changing boundaries, I think that would be a separate issue and it would certainly be a public process, especially in an area like this. I mean the last thing in the world I think the Park Service would do would be to, in stealth mode, go change the boundaries. I think that would be a good way for me to lose my job and probably put a target here and here and maybe one over here, so. (Laughter) [LR272]

SENATOR McCOLLISTER: So the proposed boundaries that the management plan adopted or proposed is no longer in effect. It's null and void? [LR272]

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STEVE THEDE: What happened was in 1991, when they created this, they created that quarter-mile boundary, and then they said, Park Service, you need to go in and develop a general management plan and you need to define the boundary that would replace that quarter-mile boundary. So that's what they did in 1996. Then that was declared null and void. And according to Warren, once that was declared null and void, what the Niobrara Council had to do was go back to that 1991 boundary. I mean they didn't have any...they couldn't recognize a boundary that, quote, no longer existed. And at the same time they told us, you guys, Park Service, you need to go back and do it and do it right this time or do it differently. So that's what we ended up doing. That was a public process. Probably a lot of you were involved with that or know about it. And (inaudible) what we now call the 2007 boundary was created and it was the judgment call, based on the people that are going out there and looking at things and trying to do the job as we were supposed to do the first time around. Whether they made mistakes or not with what they ended up doing, I'm not privy to that, per se. But they did come up with this boundary that is the boundary that's recognized by the federal government and it essentially exists as it exists. And if there's no mechanism by which to change it, at least not that I'm aware of, if we...I may go too far. But if we were in another national park, and another national park (inaudible), one of the things that we did have permission to do was if a landowner came to us and said, we own the land, this was Badlands National Park. A couple years back one of the landowners said, hey, we'd like to trade this piece of land, because it would be contiguous to my other land, for another piece of land that's inside the park, that they wanted to trade a piece of their land that was outside the park for a piece of the land that was inside the park. You know, prairie is kind of prairie and so we ended up coming out with a win-win situation whereby they said, okay, you can go ahead and do that but you have to stay underneath this cap of how many acres can be within the park. And so they were able to do that kind of a thing there. In this kind of a situation where we don't own the land, that would be...I mean I can't trade land that I don't own. [LR272]

SENATOR McCOLLISTER: So if I'm understanding,... [LR272]

STEVE THEDE: Yes. [LR272]

SENATOR McCOLLISTER: ...so that 2007 designation has no legal standing. [LR272]

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STEVE THEDE: That designation has full legal standing with the federal government. Now whether the state wants to recognize that or not is up to you folks, as I understand it. [LR272]

SENATOR McCOLLISTER: Okay. [LR272]

SENATOR FRIESEN: Thank you, Senator McCollister. Any other? Senator Schnoor. [LR272]

SENATOR SCHNOOR: Obviously, the main dispute here that I see is the boundaries. And according to what Senator Haar has given us, the federal government mandated that those boundaries be reestablished, I guess, if you will, by the...and I always get my terms mixed up but I'm going to say Game and Parks, and I don't know if I have that right or not. [LR272]

STEVE THEDE: National Park Service. [LR272]

SENATOR SCHNOOR: By the Park...National Park Service? [LR272]

STEVE THEDE: Yeah. [LR272]

SENATOR SCHNOOR: Okay. So why...I guess why did they just come in and just now just arbitrarily just go further out and take...with the potential of taking more private land or more land away from the private landowner? That's one question. And why did they just seem to ironically go around the Nature Conservancy and pick up more from the private landowners than the Nature Conservancy? Can you...I realize you weren't around when that happened, but can you...obviously you're wearing a uniform so we're asking you. (Laughter) [LR272]

STEVE THEDE: (Inaudible) say I don't know and I don't know. I'm afraid that I have not got into studying historical documents to figure out why things were put in, why things were taken out, and how that whole thing worked. And I really...I really don't know. I've had my hands full with other things to figure out and I'm sure that information is available for someone that would like to research it. And there may (inaudible). I just...I don't know. I'm sorry, that's not really... [LR272]

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SENATOR SCHNOOR: I completely understand. Thank you. [LR272]

SENATOR FRIESEN: Thank you, Senator Schnoor. Senator Haar. [LR272]

SENATOR HAAR: Well, again going back to the document of the plan, the federal plan, there were really two court decisions. The first one said...and this was done by federal courts because of lawsuits filed against the Park Service. The first one said that that initial dealing with just the county commissioners wasn't adequate. Okay. That was the first one. But that had to do with the management and who they were dealing with. The second one, again, was a court that some Omaha businessman challenged the boundaries. So boundaries could be changed through a court suit, I take it. [LR272]

STEVE THEDE: That would be correct, yes. [LR272]

SENATOR HAAR: But you, on your own, can't go in and say you want to change the boundaries and you wouldn't try that, I'm sure, but... [LR272]

STEVE THEDE: No. (Inaudible) If there was a compelling reason, somebody said there was some kind of a need to say, well, here's something that ought to go into the boundary, at this point I would end up probably first going to the Niobrara Council to say, so, what's the deal, what's going on, is that something that makes any sense? And it could certainly be something that would be discussed. But for me to go in and say, yeah, I think we'll just kind of tame that lion and change the boundary around, no. I don't know if that answers. [LR272]

SENATOR HAAR: Okay. Well, obviously, we need some help on finding out how. Now when you say they, they set the boundary, who is the they that finally...? [LR272]

STEVE THEDE: Well, that (inaudible) boundary. [LR272]

SENATOR HAAR: Who is the we though? I mean is there some administrator in Washington? Who would make this kind of important decision? [LR272]

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STEVE THEDE: I think that would be me. (Inaudible). [LR272]

SENATOR HAAR: So (inaudible). [LR272]

STEVE THEDE: And I have bosses, as you know. I mean it wouldn't be something I would just unilaterally say I think I'll just go ahead. But I think the decision would rest with me legally. I would obviously be talking to many, many people for (inaudible). [LR272]

SENATOR HAAR: So when all these meetings and public input happened and there was finally a boundary decided on, it was the person who was holding your post who made that decision. [LR272]

STEVE THEDE: Actually, in the case (inaudible) when this happened, it was actually I believe it was the regional director that actually signed off on (inaudible). So this would be like my boss in Omaha signed off on the GMP, which then actually made it legal. So it was not a superintendent at the time (inaudible) did not essentially designate that boundary. It was actually that document that you have. Once that was signed, that made it legal. [LR272]

SENATOR HAAR: Now some years ago... [LR272]

STEVE THEDE: (Inaudible) make sure I'm on the right track there. [LR272]

SENATOR HAAR: Some years ago in Oklahoma there was a bill that didn't get out of the Legislature but the bill was to form an Oklahoma militia to protect Oklahoma from the federal government. (Laughter) It didn't get out of committee. Do you...can we just kick out the federal government? Can we just say we're sick and tired of this scenic river and we can do it better ourselves? Can we kick you out of here? (Laughter) Not you. We'll want to keep you but... [LR272]

STEVE THEDE: I think so, but I (inaudible). [LR272]

SENATOR HAAR: I mean that's an act of Congress, right? [LR272]

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STEVE THEDE: Yeah. [LR272]

SENATOR HAAR: I mean that was a...so it's... [LR272]

STEVE THEDE: Us power-hungry superintendents, you got to watch us. [LR272]

SENATOR HAAR: So I mean... [LR272]

STEVE THEDE: I don't know. [LR272]

SENATOR HAAR: ...what we're dealing with here is a reality in which a federal government, you know, set a boundary and actually has chosen to work. Now their Plan B talks about...that talks about cooperation doesn't name, at least in this document, doesn't name the Niobrara Council. It names simply a state and local partnerships. And so I just, you know, we have to figure out if that partnership is really working and I guess the state of Nebraska, I mean the Legislature created the council. We can keep it there as long as we want. And you know the scenic river designation is going to be there with the federal Park Service probably in perpetuity, whatever that means. But... [LR272]

_____: (Inaudible). [LR272]

SENATOR HAAR: Yeah, (laugh) forever. We... [LR272]

STEVE THEDE: (Inaudible)...change their mind anytime they want. [LR272]

SENATOR HAAR: Yeah. So it's got to work together so that both parties feeling it's working together and everybody involved is working together. And I know we had somebody here from the National Audubon Society and so on, but I also...I just got to speak for myself. This is...I consider the Niobrara River my river too. It's part of the jewel of Nebraska. It's part of my heritage. It's part of my river and I come here on a regular basis. And so I want to see it work as best it can. That's why I'm doing this. And the reason we're doing this as a committee is because

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the Legislature created it and it's our responsibility and we can't just hand that off. I'm sorry, we can't just hand that off. So thank you very much. [LR272]

SENATOR SCHILZ: Thank you, Senator Haar. Senator Friesen. [LR272]

SENATOR FRIESEN: Thank you, Chairman Schilz. How would you describe your working relationship with the council currently? [LR272]

STEVE THEDE: I think that...I think it's a good working relationship and counsel can correct me if I'm wrong, but I think we do work together pretty well. I think my style is maybe a little bit different than the previous superintendent and I really am looking for common ground. There's some places where we probably will never have common ground and I think sometimes it's just better to just set those aside and say I think we're going to have to agree to disagree; let's see if there's things that we can do where we do have common ground. I have (inaudible) Niobrara Council and this community, and I've never seen a community that's more committed to conservation and protection. There's been disagreements in terms of who is doing that and how it's being done. But in terms of overall conservation (inaudible) this council and I think we see very much eye to eye as well as I think I see pretty much eye to eye with the community too. You know, nobody wants to see the river run dry. Nobody wants to see us pass on to the next generation a Niobrara River that's in worse condition than we find it now. We want to pass it on better, you know, to our children and our grandkids. And maybe I'm on a soapbox now, I should probably shut up, but I think the Niobrara Council...I want to work with a functioning Niobrara Council where we, the Park Service, can do the things that maybe we can do well. The Niobrara Council does some of the things that maybe we don't do so well or we can't do. You know zoning, easements, that's not something (inaudible). That's something where the Niobrara Council needs to be involved in. This whole new thing coming up that Mike was talking about and others in terms of an in-stream flow, like the Niobrara Council is I think involved in that and looking at that and I think a proponent for those in-stream flows. I think there's many, many places where we see eye to eye and I guess I would say, in answer to your question specifically, I think we work pretty well together. [LR272]

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SENATOR FRIESEN: Well, I've been hearing the same thing from the council, so I assume you had a good... [LR272]

STEVE THEDE: That's probably good. [LR272]

SENATOR FRIESEN: ...a good relationship. (Laughter) So I guess my question is we do have the border dispute and there is disagreement. How is the border dispute an impediment to protecting the river? It seems like both groups want to protect the river. And this is a minor dispute but it seems to keep getting blown up into something that's bigger than maybe it should be. So I mean so you have this disagreement but you're both still working to the same end goal. Everybody wants to protect the river. So is it an impediment or is it just something you're going to have to agree to disagree on and we just keep moving forward? [LR272]

STEVE THEDE: I guess that's up to you. (Laughter) I can (inaudible). How big of a deal is this? I don't have the answer to that. One of the problems that it does create for me has been already identified I think by a couple other folks in terms of like when I go and ask for money to do something. I can only really ask for money that is within the boundary. And I guess the council isn't...if we're working in a partnership and we do that, if I'm appropriating money, so to speak, or to an area which is outside the boundary, outside of our boundary, that could create problems for me. Don't say it always does, you know, but I need to make (inaudible). I have some explaining to do to those who are providing the money. Why is, you know, Mr. Thede, why should you be spending NPS, you know, taxpayer money on something that's outside of your park boundary or outside of the scenic river boundary? [LR272]

SENATOR FRIESEN: After having worked with states and local governments and everything, there's always opportunities to put resources like from the federal side. Maybe they pay more for those in the corridor and allow the...you know, there's tradeoffs, I know there are. And I think the working relationship is what's important. And as long as this isn't... [LR272]

SENATOR HAAR: Yes. [LR272]

STEVE THEDE: I agree. [LR272]

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SENATOR FRIESEN: ...an impediment to the working relationship, as long as everybody can look past this and still maintain the same goals, I think the money problem, I mean, can be worked out into where you allocate dollars and, you know, the groups can work that out. I don't see that as a big impediment. And unless there's...do you see anything that the state could do to, I guess, to improve the relationship? You know, looking past the boundaries, are there any other obstacles out there that the state could do to get a better working relationship? [LR272]

STEVE THEDE: I think, no, I don't think so. I think oftentimes we live in a sound bite world where like people make up their minds based on something that they hear on the radio or on TV or something. And one of the sound bites that is associated with this is you have a Niobrara Council that doesn't even recognize the same boundary. Okay, I'm quoting. It's not been my words. And how can you work with something like that? And if you get into the details and talk, as we're talking right now, and people can understand. But I think a lot of the public either isn't interested enough nor are they going to delve into the details and try to understand what a different party is saying. They say, well, these (inaudible); they're just not getting along. And I think the danger is in (inaudible) that sound bite decision making that somehow oftentimes happens. (Inaudible) I hope I didn't step across any lines here. (Laughter) [LR272]

SENATOR FRIESEN: I appreciate you coming forward. I do. That's all. [LR272]

SENATOR SCHILZ: Thank you, Senator Friesen. Any other questions for Mr. Thede? Seeing none, thank you very much for answering those. [LR272]

STEVE THEDE: Well, thank you. [LR272]

SENATOR SCHILZ: Next testifier, please. Good morning. [LR272]

BRAD ARROWSMITH: Brad Arrowsmith, current council member, Keya Paha County landowner, founding member of the original Public Service Advisory Commission; Arrowsmith, A-r-r-o-w-s-m-i-t-h. Been involved in this process from day one. Really didn't come here with no testimony. I come here, answer your questions because you've had some wonderful questions you've asked a lot of people today. [LR272]

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SENATOR SCHILZ: Does anybody have any questions? [LR272]

BRAD ARROWSMITH: Fire away. [LR272]

SENATOR SCHILZ: Senator Haar. [LR272]

SENATOR HAAR: Okay, so we asked the tough question really of the director of the Park Service...or the manager. And the question that the Senator Friesen asked was so what are the problems if the boundaries aren't the same? So I don't know if as a council member you'd care to address that. And why can't we just...it just would seem to me to simplify things so much... (inaudible). [LR272]

BRAD ARROWSMITH: I'll address it as an individual. [LR272]

SENATOR HAAR: Okay. Yeah, yeah. Please. [LR272]

BRAD ARROWSMITH: Perception. It's all about perception. At the end of the day, it's a line on a map. And I made the statement in 1990 at a hearing much like this and I'll reiterate it today: Lines on maps don't protect resources; people protect resources. I'm sorry that the regional office in Omaha doesn't recognize the fact that we are created via the Legislature. Have you told us to change? We have not been told to change by the Legislature. Is it not that simple? [LR272]

SENATOR HAAR: But, sir, I think there was testimony, wasn't there, that the council, it was in opposition at the hearing. It wasn't actually just neutral. It was opposition. And maybe you can't answer that one. [LR272]

BRAD ARROWSMITH: Trying to remember back...(inaudible). [LR272]

SENATOR HAAR: I mean, I don't mean to put you on the spot. Maybe you don't know that. [LR272]

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BRAD ARROWSMITH: You'd have to defer that one to Warren...(inaudible). I'm not certain I was serving on the council when that happened. There was three and half...four years in there, a four-year stretch that I didn't. And I believe that is when this occurred. But at the end of the day I can understand why the council...why change it? [LR272]

SENATOR HAAR: Because, you know, as we've said, the Legislature created the council and I guess the Legislature could go in and study the boundaries. But it sounds like an expensive and extensive kind of process. And it would just seem so much simpler to accept the federal boundary. I don't know. [LR272]

BRAD ARROWSMITH: It would be the easy way. [LR272]

SENATOR HAAR: Yeah, it would seem to be an easier way. When you say perception...and actually the trouble with lines on maps, I mean they're like...lines between countries and where fences get built and all kinds of things. And so the lines on maps unfortunately are...so the perception issue, is it a perception of where the boundary should be or is it who's controlling who? When you say the word perception, I'm trying to get a handle on it. [LR272]

BRAD ARROWSMITH: Anybody that lives within the corridor...you've got a silent partner. It's not so much what they're doing today, it's what they could do tomorrow. That's the unknown. Has there been a taking? No. Put a value on the taking of your peace of mind that you do now have a partner in your operation that may someday change the rules. But is that an actual taking? [LR272]

SENATOR HAAR: So do you... [LR272]

BRAD ARROWSMITH: Peace of mind, that's what's been lost. [LR272]

SENATOR HAAR: Yeah, yeah. So do you think the perception issue is mainly about the actual places the border goes now, or is it people's fear of what the government is going to do? [LR272]

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BRAD ARROWSMITH: It's fear of what the government could do. [LR272]

SENATOR HAAR: Okay. [LR272]

BRAD ARROWSMITH: That Park Service nationwide doesn't operate today like they did through the '80s, '90s in the western states. They gave themselves their fair share of black eyes. My hope, that we don't see water restrictions, grazing restriction, haying restrictions because anybody that's operating a ranch within that valley, let's face it, your hay production is incorporated...is included in the boundary. [LR272]

SENATOR HAAR: Because when I did the mediation usually...and most cases we solved. And it was usually pretty cool. And it was a neat feeling when you could get two parties to get together and agree, mainly it was perception. And when feelings got out on the table and everything, it got cleared up and people came to an agreement. But perception, okay. And I appreciate your answer. Thank you. [LR272]

SENATOR SCHILZ: Thank you, Senator Haar. Senator Davis. [LR272]

SENATOR DAVIS: So, Brad, you said you've been involved in this from the git-go back in the '90s. [LR272]

BRAD ARROWSMITH: Um-hum. [LR272]

SENATOR DAVIS: Can you give the Natural Resources Committee a little history about how this came about in the Valentine-Ainsworth-Keya Paha County area and how it was received by people. [LR272]

BRAD ARROWSMITH: There was a federally appointed board created, the Public Service Advisory Commission. It was built with a sunset clause. And I mean it was out of response to the outpour of landowner resentment. I don't know if that's the right...it was created because they wanted a sounding board of locals for the local concerns. They didn't want to deal with tar and feather at every public meeting. They wanted to create an entity where there was local input

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where we could bring and address and discuss issues and help guide them in the building of this whole process. [LR272]

SENATOR DAVIS: The Niobrara Council. [LR272]

BRAD ARROWSMITH: And out of the Public Service Advisory Commission came the first pre-lawsuit version of the council, which was a wonderful working relationship. We were equal partners at the table. That was blown up by the NPCA lawsuit which, in turn, the Legislature recreated the council. [LR272]

SENATOR DAVIS: So when the last lawsuit took place, which established the federal boundaries that are recognized but not by the state, were you on the council at that time? [LR272]

BRAD ARROWSMITH: No, sir. [LR272]

SENATOR DAVIS: Do you know if the council had any say in what happened with those boundaries at that time? [LR272]

BRAD ARROWSMITH: Public input process like any other process. They would have had the opportunity to express an opinion. But as far as any actual say, no. [LR272]

SENATOR DAVIS: So you have any knowledge about why Fort Niobrara and the Nature Conservancy were excluded? [LR272]

BRAD ARROWSMITH: The fort was deemed a federal partner operating under very much the same guideline and mentality. I truly do not understand why Nature Conservancy was excluded. They're a landowner but yet they're not treated like a landowner. [LR272]

SENATOR DAVIS: Well, I think if you look back in history you'll find that Fort Niobrara actually sold land to the city of Valentine at one time. So that doesn't really mean that that is perpetually protected either. [LR272]

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BRAD ARROWSMITH: Right. [LR272]

SENATOR DAVIS: So I'll ask you the same kind of questions I asked Mike earlier. How much of your time on the council is consumed with this kind of an issue? [LR272]

BRAD ARROWSMITH: Very little. [LR272]

SENATOR DAVIS: So you are able to work with the Park Service working around the things on which you don't agree... [LR272]

BRAD ARROWSMITH: Yes, very much so. [LR272]

SENATOR DAVIS: ...and it doesn't cause any problems. [LR272]

BRAD ARROWSMITH: Very much so. [LR272]

SENATOR DAVIS: What is the local perception of the Niobrara Council? [LR272]

BRAD ARROWSMITH: I think your testimony pretty well tells you. [LR272]

SENATOR DAVIS: And do you have a perception as to how the local people feel here about the boundary changes? [LR272]

BRAD ARROWSMITH: Nobody likes boundary...I mean nobody likes change. Let's just face it. That's a western mentality. Nobody likes change. To make one change, to have a silent partner then to make a second change, when is the next change going to happen? I mean at the end of the day, let's draw the line in the sand and move forward and protect the river, the resource. Let's quit arguing over semantics. [LR272]

SENATOR DAVIS: When the corridor was put in place, there were some restrictions put on development and things. And did that impact people's dwellings who were down within the corridor? [LR272]

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BRAD ARROWSMITH: Minimally. But the restrictions placed within the corridor are through county zoning, not from the federal government. [LR272]

SENATOR DAVIS: So county zoning then is the...carries the weight of...(inaudible). [LR272]

BRAD ARROWSMITH: The scenic river designation was an inspiration for the four counties to advance zoning. [LR272]

SENATOR DAVIS: And that has been successful? [LR272]

BRAD ARROWSMITH: For the most part. [LR272]

SENATOR DAVIS: What does "for the most part" mean? [LR272]

BRAD ARROWSMITH: You live in a western county, sir. Is zoning popular? [LR272]

SENATOR DAVIS: No. (Laughter) [LR272]

BRAD ARROWSMITH: What more do I need to say? [LR272]

SENATOR DAVIS: I understand. I just want to... [LR272]

BRAD ARROWSMITH: There again, zoning boils down to perception. Some people look at zoning as an encumbrance. Other people look at zoning as a protection. It's all about how you process the information and what you want zoning to be. I'm not here to defend, support, or deny. And I've served on a planning commission since 1990. [LR272]

SENATOR DAVIS: I think that probably...what about funding? Do you have to have more...? [LR272]

BRAD ARROWSMITH: Funding is a huge issue. From the inception of the Niobrara Council to what it is today, the money has steadily went backwards. Some chastising we've received from

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two individuals testifying today about not getting things done--well, getting things done takes dollars. Would you do things at the Legislature when you have no money? No, and we're no different. We have no taxing mechanism, very little outside resources that we can access. There's projects and grants you could apply for. But administrative dollars, project dollars, they're not the easiest to come by. That's our number one problem. Second part of the problem, the very nature of our relationship with the Park Service. And I'm not here to chastise Steve. He's done a wonderful job compared to his predecessor. We need more of an open dialogue, more of an open relationship. Everybody's agendas need to come to the table. They're concerned about this portion of the river. We're concerned about this portion of the river. The visitor management issues are addressed. What about riverbank stabilization, noxious weed management? Two huge issues, we can't throw enough money at those two issues, and we have no money to throw at those issues. So it's...some of the...for everything that we do good, yes, there's lots more we could do. But it takes dollars. [LR272]

SENATOR DAVIS: So with regard to the weed issue--I'm going to divert a little bit here--aren't there statutes in place that require weeds to be managed by the operator? [LR272]

BRAD ARROWSMITH: Um-hum. [LR272]

SENATOR DAVIS: And is that not being done? [LR272]

BRAD ARROWSMITH: Not...efforts, attempts, yes; actual control, no. Now the weed...the noxious weed population will continue to explode due to accessibility, inability to put an airboat on the river to go spray some stuff that we can't get to on foot. [LR272]

SENATOR DAVIS: Thank you. [LR272]

SENATOR SCHILZ: Senator Lindstrom. [LR272]

SENATOR LINDSTROM: Just going back to the funding question, \$42,000 from the state, \$100,000 from the feds, do you have a number in mind that makes sense? Is it another \$50,000? [LR272]

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BRAD ARROWSMITH: When we were \$50,000 state and \$195,000 federal, we still needed more money. [LR272]

SENATOR LINDSTROM: Okay. [LR272]

BRAD ARROWSMITH: I mean if this is, quote, unquote, going to be a national...well, it's not, quote, unquote going to be. It is a national park (sic). [LR272]

_____: It is a national... [LR272]

BRAD ARROWSMITH: It's a water column and a line drawn on a map. [LR272]

_____: Yeah. [LR272]

BRAD ARROWSMITH: Now we're going to pick and choose to manage this as a national park, or are we just going to manage one portion of it? And unfortunately, there's too much of that...is actually what happens. I mean from the Niobrara Council perspective, we would love to be able to go outside the corridor, because at the end of the day it's not the corridor. You have to look at this as a drainage and watershed issue. These problems don't just originate right at the riverbank. There may be 10, 15 miles of stream that contributes to a problem. Noxious weeds don't just show up right here. They show up everywhere or they'll get into a drainage and they work their way down. I mean we've been working on discussions, spraying, chopping, bugs on purple loosestrife since back in '92 and that problem still exists. Canadian thistle, you guys are going to get sick of hearing that term Canadian thistle coming forward. [LR272]

SENATOR DAVIS: I've been hearing it. [LR272]

BRAD ARROWSMITH: You're going to hear more. I mean drive from here to Calgary and it gets worse the further northwest you go, national...Black Hills, not hit; Yellowstone, between Canadian thistle and spurge, Park Service ought to be embarrassed to say that they manage that piece of property. Problems don't go away and they're not going to go away unless they're addressed, identified, and steps are taken towards them. [LR272]

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SENATOR SCHILZ: Senator Haar. [LR272]

SENATOR HAAR: I'm going to work with Senator Davis to give the council property tax authority...no, (inaudible). (Laughter) [LR272]

BRAD ARROWSMITH: Okay, there's two...two seats will open up in the Legislature. [LR272]

SENATOR SCHILZ: Hey, here you go. Yeah. [LR272]

BRAD ARROWSMITH: Great idea, but no. We'd love to see that happen, but no. [LR272]

SENATOR HAAR: So besides...you get right now \$100,000 from the National Park. You get \$42,000 from the state, right? [LR272]

BRAD ARROWSMITH: I believe that's correct...(inaudible). [LR272]

SENATOR HAAR: (Inaudible) that's about a right number. Do you get any funding at all like from the NRDs, because the issues you're just talking about sound also like NRD kinds of issues? [LR272]

BRAD ARROWSMITH: Kalli, would you care to address? [LR272]

KALLI KIEBORZ: We've not received any funding from the NRDs. [LR272]

SENATOR SCHILZ: Okay. We can't do that, folks. So if you can say it, that would be fine. But she can't say it from where she's...(inaudible). [LR272]

BRAD ARROWSMITH: Okay. Kalli says no. (Laughter) [LR272]

SENATOR SCHILZ: Thank you. [LR272]

BRAD ARROWSMITH: Sorry, Senator. [LR272]

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SENATOR HAAR: So those are the two funding sources right now. [LR272]

_____ : Yes. [LR272]

SENATOR HAAR: Yeah, okay. Well, thank you. I appreciate your testimony. And sorry about the property tax. (Laughter) [LR272]

SENATOR SCHILZ: We all are...(inaudible). Thank you. Any other questions? Thank you, sir, very much for your testimony. [LR272]

BRAD ARROWSMITH: Thank you all. [LR272]

SENATOR SCHILZ: Is there any further testimony? [LR272]

SENATOR DAVIS: I want to get out of here alive, Ken. (Laughter) [LR272]

SENATOR SCHILZ: Yeah, I understand. [LR272]

SENATOR HAAR: I'll stand behind you. [LR272]

SENATOR SCHILZ: Any other people wishing to testify today? Come on up, Mike. Good afternoon. [LR272]

MIKE TUERK: Good afternoon and welcome to Valentine. [LR272]

SENATOR SCHILZ: Thank you. [LR272]

MIKE TUERK: My name is Mike Tuerk, M-i-k-e T-u-e-r-k. I am a Keya Paha County landowner within the corridor and a county commissioner. And I am the current chair of the Niobrara Council. First and foremost, I want to thank this committee for your work on LB310. It was appreciated. We've been working a long time to try to get that established. And I don't know if it's appropriate, you'll have to tell me. We have a huge complement of the Niobrara Council

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here today. Is it appropriate to have them stand, and not necessarily be recognized, but to stand?
[LR272]

SENATOR SCHILZ: That's fine. [LR272]

MIKE TUERK: Please... [LR272]

SENATOR HAAR: I'd like to see that. [LR272]

MIKE TUERK: All members of the Niobrara Council, would you please stand up and wave your hand. [LR272]

SENATOR SCHILZ: Thank you, folks. [LR272]

MIKE TUERK: Thank you. [LR272]

SENATOR SCHILZ: Thank you, sir. [LR272]

MIKE TUERK: I don't have much to say today. I guess I'm affording myself to you. If any questions that you feel were unanswered, I will try my best to address the issue. I did hear a couple comments earlier with regards to a national park. That is not a valid statement. It is a scenic river and no more, no less. There was some conversation with regards to the cooperative agreement. I don't know if those answers have been fulfilled. I should say that it is a living document that is reviewed annually with the Park Service. And basically what it is, is a funding vehicle that we go through on an annual basis to identify the projects that we look at and how we're going to fund those. And it's basically an accounting of the funding that is in fact received from the Park Service and from the Nebraska Game and Parks Commission. There was some conversation with regards to funding. The numbers that we're talking about are accurate. It's \$100,000 currently, and \$42,000 from the state of Nebraska--sorely in need. I think you will see in your executive summaries as you digest that, there's a compilation in there that discusses the funding history of the Niobrara Council. In 2000, you will see a number in there of \$195,000 which was our federal government budget back in the day. I was not a member at that point in

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time but, you know, doing the math, you're almost 50 percent less in terms of funding. And I feel our responsibilities and the obligations that we feel we need to address are growing, yet our funding is shrinking. So it's a concern. And within your packet, you will also see some numerical history with regards to funding and where we think we'd like to go. So with that, I will be quite and hopefully can entertain your questions. [LR272]

SENATOR SCHILZ: Senator McCollister. [LR272]

SENATOR MCCOLLISTER: Yeah, Mike, in terms of your funding, do you think that the reduction in funding from the Park Service has resulted in the boundary dispute or just general federal government trying to limit control...better control their budget? [LR272]

MIKE TUERK: My feeling and understanding is it's a control issue with declining federal budgets that is passed along. I don't think the boundary issue has had any impact on our budget. [LR272]

SENATOR MCCOLLISTER: Okay. [LR272]

SENATOR SCHILZ: Senator Haar. [LR272]

SENATOR HAAR: What about state funding? I haven't looked at the packet we got yet. Was that higher at some point? [LR272]

MIKE TUERK: Actually, in 2000 I believe it was \$25,000 and it has increased to \$40,000. I don't want to say that it's adequate because... [LR272]

SENATOR HAAR: Sure, sure. [LR272]

MIKE TUERK: ...you know, it's never adequate. But the state has been very beneficial in maintaining the Niobrara Council. [LR272]

SENATOR HAAR: Okay. We'll give that credit to Senator Davis. [LR272]

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MIKE TUERK: That's where we do it too. [LR272]

SENATOR HAAR: (Laugh) Now Senator Friesen asked the really great question of Steve about boundaries. I mean a lot of this has seemed to come around that and perception and so on. Is there any...would there be any advantage for both groups to have...be talking about the same boundary? [LR272]

MIKE TUERK: I suspect it would remove a bone of contention indeed. I don't think it's been a huge issue. Steve's predecessor, you know, brought that to our table as a hammer to try to beat us about the head and shoulders. Didn't work very well. But it's obviously an issue. And I think testimony has been heard on...not necessarily today but in our prior meeting in January that the Niobrara Council did approve of those boundaries back in the day. And that is within the general management plan. We heard a lot of testimony about the processes that were gone through with regards to public hearings and so on and so forth. Within that general management plan you will also see numerous letters of complaint, protests with regards to what was going on. There was a statement earlier about, you know, do you feel this is arbitrary? And said, absolutely it was arbitrary. You know, the lawsuit that was discussed said there was a bump-out on the boundary line. It was protested with a lawsuit. The guy happened to win the lawsuit so in essence what happened was they moved down the road and did the bump-out on the next piece of property down the river. So is that arbitrary? Absolutely. One of the ORVs that is defined in the general management plan happens to be scenic value. The scenic is an ORV. So the justification for some of these bump-outs, as an example, on Highway 137 is you cross the Niobrara River going to north. They have defined an area that is, you know, well outside the corridor, but it's an area that is defined as a viewshed. So it has some scenic value to the eye apparently. But that is an ORV, so you know, they are able to manipulate those things to depict whatever they like. But again, I have to say that this boundary issue came out of the blue. Back in December we did have a vote on the Niobrara Council because it was brought up as a motion in a meeting. A majority opinion ruled that we did not want to pursue or support the legislature that asks for the boundary change for fear it would jeopardize the legislation that we had proposed with regards to LB310. So that's where this bubble started and it is today. And it has been festering, I guess. And I think another issue--and this might be me personally; I'm not trying to speak for the board--it would seem to me if legislation was going to be proposed on behalf of a public body, which we are, that there

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should be some consultation with that public body. That did not happen. That legislation came out of the blue. And that's all I can say about that because that's all...(inaudible). [LR272]

SENATOR HAAR: Now the legislation you're referring to wasn't LB310 because that got passed, right, but the other one? [LR272]

MIKE TUERK: Correct. [LR272]

SENATOR HAAR: Yeah, yeah. And you felt the board had a feeling that by putting in the one on the boundaries, it was going to affect the other one. [LR272]

MIKE TUERK: That it would be jeopardized with the addition of the boundary issue. So that's why it, in fact, was not included in the legislation that we supported and forwarded through Senator Davis. [LR272]

SENATOR HAAR: Gotcha. Okay, thank you very much. [LR272]

SENATOR SCHILZ: Senator McCollister. [LR272]

SENATOR McCOLLISTER: Let's go back to the boundary issue in a different respect. The boundaries were established by a management plan which were subsequently found to be inappropriate or were changed by a court, correct? Okay. What extent could the Park Service change the boundaries now? Do they have that authority? [LR272]

MIKE TUERK: My understanding is...and hopefully we've got some authorities here that can correct my statement, but I understood that that general management plan was, in fact, to be reviewed on a five-year basis. [LR272]

SENATOR McCOLLISTER: But the management plans are no longer...(inaudible). [LR272]

MIKE TUERK: Well, they are. The general management plan today is the bible that the Park Service operates under to define their responsibilities. [LR272]

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SENATOR McCOLLISTER: So that could reactivate that public input process to some extent. [LR272]

MIKE TUERK: That's what I...if it was going to be modified, I don't know at the federal level what would be involved in that. But certainly anything that they do, the Park Service that is, I think has to be involved in a public comment period where most of that documentation that is within the general management plan, that is the outcome of that public... [LR272]

SENATOR McCOLLISTER: So the Park Service boundaries are not fixed and could be changed by some process. [LR272]

MIKE TUERK: I suspect that's true. Now whether that process goes into Omaha at the regional level or travels to Washington for...I can't answer that. I don't have that answer. [LR272]

SENATOR McCOLLISTER: Thanks, Mike. [LR272]

SENATOR SCHILZ: Thank you. Senator Schnoor. [LR272]

SENATOR SCHNOOR: Mike, thanks. Thanks for testifying. I've asked a few other of the folks testifying to answer these, you know, the five questions that we're looking for here in this study. And I'm going to ask you since you are, in fact, the chairman. Do you see any problems with the qualifications of needing to serve, of the people that are on the council, their qualifications in needing to serve? [LR272]

MIKE TUERK: No. [LR272]

SENATOR SCHNOOR: Okay. What about the process and the appointment of these members, are there any issues or problems that need to change there? [LR272]

MIKE TUERK: No, and that's statutorily set where that selection and process is defined within the Niobrara Council statute. And we follow that letter to the T. And if you're unfamiliar with the process, we advertise those positions. There is criteria that must be met for that particular job

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descriptions. The four county commissioners that sit on the board review those applications. And if the county commissioners have the opinion that they meet the criteria that is described within the Niobrara Council statute then those qualified candidates are, in fact, forwarded to the Governor's Office and the Governor makes that decision, of which we are informed of after the appointment. And those terms are typically outside of some of the appointments from the NRD boards and the Game and Parks and the U.S. Fish and Wildlife. The other--the landowner representatives and the timber industry representatives, recreation industry representatives, those people are on a three-year term--and after their three-term has expired they have the opportunity to be challenged on their position if somebody else is wanting that position. Or they can reapply for that position. [LR272]

SENATOR SCHNOOR: Okay. Do you feel the council has always acted within their authority? [LR272]

MIKE TUERK: I do. [LR272]

SENATOR SCHNOOR: Okay. I'll get back to the boundary issues because obviously that's the main point of contention. Do you feel that there are any other issues related to the council that need to be addressed? [LR272]

MIKE TUERK: The only issue, and it was mentioned earlier, would have to deal with funding. We've kind of taken an aggressive stance over the last two years of where we want to go. We want to get to a position where the council is, in fact, doing more projects that are self-sustaining, that we can accommodate our own budget by doing project A, project b, project C, maybe even an expansion of that into the local county communities, maybe an expansion into those counties to see if we could solicit funding from them. As it sits right now, we've been working on a carryover budget for the last several years that gets whittled away every year. And I think our forecast on our current budget process is by the middle of this next fiscal period we're going to be...have an issue. [LR272]

SENATOR SCHNOOR: Okay. Now back to the boundaries, it's...I still haven't seen or heard an answer as to why...I mean I know from a legal standpoint why the boundaries were changed. But

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why were these lines arbitrarily picked? Why were certain pieces of property gone around, Nature Conservancy being the main one. Do you have any knowledge of that or can you speak to anything on that issue? [LR272]

MIKE TUERK: I have no personal knowledge of it. That was before my time. I have attended some of their river management planning sessions which are attributable to the Niobrara River within the corridor. I know the oversight...going back to these ORVs, which are the outstanding remarkable values, there's five of them that they've assigned to the river: palaeontology, wildlife, water cleanliness, all of these things. As an example, when they go in and try to do their river management plan, which is an ongoing maintenance plan for the river by the Park Service, they'll bring in a battery of folks, experts in their field if you will, and they'll look at an inlet. As an example, Plum Creek would be a gleaming example. And they manage that inlet for that ORV. So as an example, if the confluence of that Plum Creek, they may make an opinion that says, well, we need to be back up 200 more yards for habitat for minnow reproduction, whatever, whatever the case might be. So when I say arbitrary before, I think the ORV that could in fact be abused is the scenic ORV. A lot of the other ORVs are documented through science and supportable. The scenic scenery ORV I believe would be the one that would be violated or could be abused if they were going to try to...I mean, a viewscape is a pretty broad term, you know, and that's very subjective. [LR272]

_____: Agreed. [LR272]

MIKE TUERK: But other than that criteria, I mean those things were done well before my time and I don't specifically have an answer and/or a solution to that question. [LR272]

SENATOR SCHNOOR: Okay. Do you think we would even be here if LB, I think the number was LB623... [LR272]

MIKE TUERK: LB622. [LR272]

SENATOR SCHNOOR: ...if that was never brought forward? [LR272]

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MIKE TUERK: No. [LR272]

SENATOR SCHNOOR: Would we even be here talking? [LR272]

MIKE TUERK: No. [LR272]

SENATOR SCHNOOR: Was that... [LR272]

MIKE TUERK: Although we welcome you out here. [LR272]

_____: Thank you. [LR272]

SENATOR SCHNOOR: Well, I love...I don't get out here very much. Usually I go to the sale barn, pick up a load of cattle, and turn around and go home. But do you...you had mentioned that the council voted on these boundaries, the new boundaries that Game and Parks... [LR272]

MIKE TUERK: National Parks. [LR272]

SENATOR SCHNOOR: National Parks. I always get that wrong. Sorry. (Laughter) That they established in 2007. You guys voted on that. Was that... [LR272]

MIKE TUERK: In December, last December. [LR272]

SENATOR SCHNOOR: But that was not a unanimous decision...(inaudible). [LR272]

MIKE TUERK: It was not. It was a majority vote. I can't recall specifically the numbers. There was I know one commissioner that, he didn't abstain, but he didn't vote because of the issue that...the double voting that we addressed in our previous legislation. [LR272]

SENATOR SCHNOOR: And we fixed that, but it's my understanding then that a council member then brought this to a senator to enact legislation to get this recognized, is that...? [LR272]

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MIKE TUERK: That's speculative, but that's what we feel. [LR272]

SENATOR SCHNOOR: Okay. [LR272]

MIKE TUERK: That's what I feel, let me say it that way. And again, I think the Niobrara Council would, in fact, take the position that we're willing to learn, we're willing to listen. But we would appreciate...you know, we've tried to enact legislation on our own behalf in the past. And we've always had a good ear. But if legislation is going to be enacted on our behalf by some other person, body that affects us, I think we would like to have some input into the process. So that's all I can say about that. [LR272]

SENATOR SCHNOOR: Okay. [LR272]

MIKE TUERK: And that process did not happen. [LR272]

SENATOR SCHILZ: Thank you. To say that process didn't happen, there was a hearing on the bill, correct? And I believe you testified? [LR272]

MIKE TUERK: This was prior to that. [LR272]

SENATOR SCHILZ: Well, the process did happen and you did have a say, correct? [LR272]

MIKE TUERK: No, let me say this again. [LR272]

SENATOR SCHILZ: I want to make sure that, because I think... [LR272]

MIKE TUERK: Okay, LB622 was introduced without any agreement, consultation with the Niobrara Council. [LR272]

SENATOR SCHILZ: Okay. [LR272]

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MIKE TUERK: And that took place in December, that vote did. It was brought up a motion on the floor that we would...would we support the boundary change? The vote was a majority vote opposed to it. That was in December. Then I believe the legislative hearing was in January if I'm not mistaken, 13 maybe? [LR272]

SENATOR SCHILZ: Sure. [LR272]

MIKE TUERK: So when I say we were not involved in the process, we were not involved in the process. We were not involved in the proposal of that legislation nor were consulted about that this was even pending or being thought about. [LR272]

SENATOR SCHILZ: Okay. [LR272]

MIKE TUERK: Well, I shouldn't say that. We were maybe forewarned at one of the...(inaudible) well, there's something going on kind of a thing. So I'll stand corrected on that. [LR272]

SENATOR SCHILZ: I just want to make sure that everybody understands that during the hearing process, everybody was heard on that issue. [LR272]

MIKE TUERK: Yes, absolutely. [LR272]

SENATOR SCHILZ: Thank you. [LR272]

MIKE TUERK: And I didn't mean to state...(inaudible). [LR272]

SENATOR SCHILZ: That's okay. I just wanted to make sure that we didn't... [LR272]

MIKE TUERK: Certainly. [LR272]

SENATOR SCHILZ: I have a question. We talk about funding. And I agree with everything that's been said on that as far as you have to have money to make stuff happen. And so when you take the funding and you meld it with the boundary situation and you listen to what the

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superintendent had to say earlier, will you take that federal money that's given to the council and only spend it in the areas that the National Park Service recognizes, and then use the state money and whatever else you can get in the area that Nebraska recognizes? Or how will you do that going forward if there's some disputes? And I don't know if it's the truth, but if there's an issue of spending it outside the district you losing the funding, how do you see that? [LR272]

MIKE TUERK: And I should defer to a higher power, our executive director. And I don't know what's allowed, what's not allowed. But, yes, there are in fact demands that are placed on us by the state of Nebraska on how we account expenditures that are state related and how we account, not with the state but dealing with the federal relationship, we have to specifically account expenditures that come from the federal pocket. [LR272]

SENATOR SCHILZ: Sure. [LR272]

MIKE TUERK: And I don't know if that answers you question. [LR272]

SENATOR SCHILZ: No, that's fine. I was just wondering if there was... [LR272]

MIKE TUERK: Again, going back to the cooperative agreement, that is the basic understanding between the Niobrara Council and the National Park Service as to where those dollars will go. [LR272]

SENATOR SCHILZ: And with that agreement, that's how those dollars will be expended moving forward for the time frame of that agreement, correct? [LR272]

MIKE TUERK: That's correct. That's correct. [LR272]

SENATOR SCHILZ: Okay. Thank you. Appreciate it. Any other...Senator Haar. [LR272]

SENATOR HAAR: Again, going back to the plan--and this is all out on the Internet for other people who want read it--when they come up with this management plan they have to look at all kinds of Environmental Protection Act, etcetera, etcetera, etcetera. And then they went through

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about a six-year planning process. And part of that planning process was the new border. Would you say that was an insignificant kind of expenditure or effort, or was quite a bit of effort put into that? And I'm just thinking about will it happen again on the drop of a hat? [LR272]

MIKE TUERK: I would say...and again, this is personal opinion. It took place prior to my existence in this part of the country, but, yeah, anything that they do is huge. I've seen it in their planning processes, (inaudible) manpower to go in and replat the new boundaries and those kinds of things. Like I say, I don't believe they sit down and draw a pencil on a line and say this looks good. I think, you know, there's field inspections and things that go on. So, yeah, I would say it was a huge process. [LR272]

SENATOR HAAR: So you know, I mean anything could happen. I guess the federal government...I don't know if they're (laugh) going to take over Nebraska or whatever. But I mean really, anything could happen but the likelihood of coming in now and changing the boundary in any significant way would require an enormous effort, would you say is pretty unlikely to happen? [LR272]

MIKE TUERK: Personal opinion, yeah. [LR272]

SENATOR HAAR: Yeah, yeah. And so going back to your bone of contention and maybe another one of the perception are really the issues here. [LR272]

MIKE TUERK: The perception issue, it's opening up old wounds of what's taken place. I find it curious, looking back at the general management plan, that they will refer to the Nebraska statute as their boundaries in the new management plan, which is a contradiction in terms right there. Do you understand what I'm saying? [LR272]

SENATOR HAAR: Yeah, yeah. [LR272]

MIKE TUERK: That they recognize the '91 boundary from our initial legislation as the prescribed boundary in the general management plan. So there's been some due diligence issues I think in this process that...you know, why didn't they go back to the Legislature with the new

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management plan? Don't have an answer for that. Why is there misinterpretation in the general management plan referring to the Nebraska statutes? I don't have answers to those questions. So I get the impression that it was hurry up and finish this thing and get to the end of the road. And some of the I's weren't dotted and some of the T's weren't crossed--my opinion. [LR272]

SENATOR HAAR: Or maybe the Legislature, in 2007, should have looked at the plan and none of us would be (laugh) under the gun right now. So with term limits, we would not have been here. So thank you very much. [LR272]

MIKE TUERK: Thank you. [LR272]

SENATOR HAAR: Appreciate it. [LR272]

SENATOR SCHILZ: Thank you, Senator Haar. Any other...Senator Davis. [LR272]

SENATOR DAVIS: Just a couple. Thank you, Mike. Good testimony. You heard testimony that the Niobrara Council had gone off the rail and civility was low and they weren't doing their job. Could you comment on that. [LR272]

MIKE TUERK: Yeah, I'd love to. We might have thrown some spitballs at one another over the years. I've never seen any kind of upheaval in there. And I've been involved now for I think six years. So, no. And it's curious. But word of mouth is what propagates these kinds of things. I've never seen them at a Niobrara Council meeting, the Audubon Society, never, not once. And I've missed one meeting in six years. [LR272]

SENATOR DAVIS: Thank you. [LR272]

MIKE TUERK: So I think those are unfounded. [LR272]

SENATOR DAVIS: Thank you. [LR272]

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SENATOR SCHILZ: Thank you, Senator Davis. Any questions? Seeing none, Mr. Tuerk, thank you very much for your testimony. [LR272]

MIKE TUERK: Thank you. Appreciate it. [LR272]

SENATOR SCHILZ: Very much appreciated. One final time, is there anyone else that would like to testify? [LR272]

RODNEY PALMER: Thank you. I'm Rodney Palmer, R-o-d-n-e-y P-a-l-m-e-r. I'm a landowner on the Niobrara River and have been since before the inception of the enactment of the scenic river. I was involved very heavily in the lobbying against the scenic river in the 1980s and well into the '90s. And we didn't think from looking at other scenic rivers that had been enacted by the federal government and the United States Park Service that it was a good thing for local people. From the standpoint that the history of these is that they expand. They start out with one section. They add another section. Then they need a boundary. And then they need a buffer. And then...and it just keeps expanding. And then pretty soon they say, well, it's so great it must be a...it's a park area now so we want a national park. And that's the history of these things that's gone on. We were directly involved with a lot of people from other areas, other states where they had enacted scenic rivers and we found out that they became antagonistic to local land ownership, the goal being to get all people and animals basically out of the corridors. They wanted it pristine. They wanted it left to nature thinking that the local people could not protect nature like the federal government could do it, notwithstanding the fact that we had pictures that maybe some of you had seen showing what the Niobrara Valley looked like before and afterwards. And it's been greatly enhanced through private ownership over the years, well protected, well taken care of. It's interesting to note in listening to some of the testimony, and I got here late, that the original plan which was enacted was done so without any studies. And the federal law said that should be studied first and then enacted. But at that time, our senator pushed it through without any studies. They also said it couldn't be done on any area that had an impoundment on it. And we did have a dam on the river already right outside of Valentine. And so it was contrary to that even. But it was pushed through, it was a political issue, and it never got studied until after the fact. How that got done, I don't know. You ask about boundaries. Boundaries in this particular case seem to be if you were a friend of the Park Service, of the

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federal government, you were treated differently. If you were a foe...and I can name you several land ownerships that were foes. And where the foes were they went out and took their ground. They made it instead of going like a half-mile along the river, they went out and grabbed theirs in. And this is one of the lawsuits that was started and was won by that landowner. It took a lot of money. It took a big-time law firm out of Omaha to do it. And it had to go through federal court. And most people didn't have that kind of money or time to do that. So they are stuck with a boundary in these little places that the Park Service decided they were going to take. The commentary in the general management plan--if you will look at it there are numerous letters attached to it at the end--will show you some of the concerns of the people. They were disregarded basically. One of the things that I pointed out early in the process was the test was we want land that's outstandingly remarkable. It has certain values that need to be protected. I pointed out that, is center pivots an outstandingly remarkable land? Is that something that we want to preserve? Is alfalfa fields along the river, is that outstandingly remarkable? And just right north of Ainsworth at Meadville there are two center pivots. The people were adamantly against the Park Service and the scenic river taking...and they were jugged out and took their alfalfa fields, their wheat fields, their corn fields. And it's still there today to that extent. And I see no reason for it. It had no outstandingly remarkable value whatsoever. But that is part of the history of it. And so it got very divisive. It was very bitterly fought and emotions ran high on both sides. And I think that's part of the reason why we have some inequities today in that boundary. I stand against LB622 today for the reason that it's an expansion of that boundary again. And we have gone through this and gone through this. And when asked about whether this can be changed, obviously it apparently can be changed by the federal government by merely doing an enhanced plan whenever they want to do another plan. And then they just publish it in the Federal Register. If you don't object or even if you do it doesn't make any difference. And in so many days it goes through and it's law. That's the way rules and regulations are formulated by the federal government. And the local people just feel they don't have any choice here. They don't have a say. And so when we come here today and ask you folks to help us, this is our only chance. We don't have the opportunities. We don't have the money. We don't have the billfold. We don't have the powerful law firms to fight these folks. I can tell you this, that if you read the management plan, it is my opinion that the overall goal of the federal Park Service is to control this corridor with an iron fist and that eventually they want to do away with the Niobrara Council. The Niobrara Council was thought of after the fact as kind of a compromise to keep the Park Service

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out in its entirety. We wanted local input and local say. The very first Niobrara Council was composed of an interlocal agreement between the four counties, the four county commissioners. And when that was proposed, I drafted the resolution for each county to sign. And it was passed. And then they expanded upon that and said, well, we need other input from other interests like the timber industry, the canoeing industry. And we didn't object to that. We thought that was good. And so that's how the Niobrara Council came about. But if you read the plan, the comprehensive plan, it says that if the Niobrara Council doesn't work, the Park Service takes over. That's in the plan. And the goal, I believe, of the Park Service is to make sure the Niobrara Council does not work. Your goal should be that the Niobrara Council does work. And that comes through funding, state funding. We need to plant the seed. We need to try to continue this Niobrara Council because it's good for all people. It's good for government. It's good for private property. It's good for the industries involved. If...what I believe is happening is that the Niobrara Council is trying to be squeezed out by finances. The Park Service originally was very generous to the Niobrara Council. And as time goes on, they squeeze, they squeeze, they squeeze, and they're squeezing. And what's happening is that they're going to get the council down to the point where they can't even operate the way they should be. And unless they can come up with financing to breathe new life into them, I think their day is doomed whether they know it or not just because the Park Service is going to keep withdrawing their funds, making it less and less and less all the time to the point where they can't do anything. Or if they are there, they're in name only and aren't taking care of the responsibilities that the Park Service is going to claim. So they're going to say, aha, you're not taking care of it anymore. We're going to have to step in and do this for you. And that's what's going on. And it's in the plan. Read that comprehensive plan. If you have any questions, I'll be glad to answer them. [LR272]

SENATOR SCHILZ: Thank you. Any questions? Seeing none, sir, if you could fill out a green and hand it in. [LR272]

RODNEY PALMER: I will. Thanks. [LR272]

SENATOR SCHILZ: I appreciate it. Thank you for your testimony. One last chance, any other folks that want to testify? Going once, twice... [LR272]

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SENATOR HAAR: Senator. [LR272]

SENATOR SCHILZ: Do you want to close? [LR272]

SENATOR HAAR: Yeah, I would...no, I don't want to close. I just want to say thank you to the people who showed up today. My only disappointment is when I drove up here last night all the way from Hay Springs to here it was in fog and so...(laughter). I've seen the scenery many times, but I missed the beautiful scenery. [LR272]

SENATOR SCHILZ: Okay. Well, thank you so much, folks. We appreciate all of your attendance. We appreciate all of your input. This will end the hearing on LR272. And we very much appreciate your attendance today. Thank you very much. [LR272]