

Natural Resources Committee September 19, 2019

HUGHES: I see that it's 9:00. So welcome to the Natural Resources Committee. I am Senator Dan Hughes from Venango, Nebraska, and I represent the 44th Legislative District. I serve as Chair of this committee. Today we will be hearing testimony for LR142, which is an interim study to examine the matter-- any matter concerning Game and Parks, and LR114, an interim study to examine the conditions under which the board of directors of N-CORPE project and the Rock Creek augmentation project may dispose of real property each owns related to the projects. The purpose of this hearing is to garner information for the committee. I ask you to abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the entrance to the room. Please fill out the green sign-in sheet before you testify. Please print, and it is important to complete the form in its entirety. When it is your turn to testify, please give the green sign-in sheet to our committee clerk. This will help us make a more accurate record-- public record. If you do not wish to testify but would like your name entered into the official record for being present at the hearing, there is a separate white sheet on the tables that you can sign in for that purpose. This will be part of the official record of the hearing. Written materials may be distributed to the committee members as

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exhibits only while testify-- while testimony is being offered. If you have handouts, please make sure to have ten copies and give them to the committee clerk, and she will give them to the committee members. When you come up to testify, please speak clearly into the microphone. Tell us your name, and please spell your first and last name so we get an accurate record. We will be taking testimony from the public and allow three minutes per testifier. When you see the yellow light come on, that means you have one minute remaining. The red light indicates your time has ended. Questions from the committee may follow. Another reminder, no displays of support or opposition to a bill, vocal or otherwise, is allowed at a public hearing. The committee members-- the committee members with us today will introduce themselves beginning on my right.

GRAGERT: Good morning, Tim Gragert from District 40 which is up in northeast Nebraska, Cedar, Dixon, Knox, Holt, Rock, and Boyd County.

QUICK: Morning, Dan Quick, District 35, Grand Island.

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

HUGHES: And to my left.

HALLORAN: Good morning, Steve Halloran representing District 33 which is Adams and southern and western Hall County.

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HUGHES: We also have the committee legal counsel, Ms. Laurie Lage, to my left and to my far left is the committee clerk, Mandy Mizerski. I will point out, since we have a full room, we are dealing with LR114 first which is the augmentation projects. The Game and Parks will come after that. So if you're Game and Parks, you can maybe sit in the overflow room in the back as we're kind of crowded in here. But everyone is certainly welcome to stay. Thank you, members of the Natural Resource Committee, for coming to the western part of the state for the hearing on important issues the committee is facing. I introduced LR114 because the committee has been dealing with the N-CORPE issues since I've been in the Legislature. As you know, the N-CORPE project was created in response to Nebraska's compact obligations to Kansas. The many issues surrounding the project have been addressed extensively in the Legislature and in the courts. There have been attempts to force the NRDs that own the projects to sell the land that it had purchased in order to access ground water needed for the project. Most individuals have come to see that it would not be good policy to enact legislation requiring NRDs to sell the N-CORPE land. Some remain convinced, however, that the NRDs should sell that land, and their ability to run the project without issue would not be-- without issue would not be affected. There have been attempts over the years to come up with legislation that would compel the NRDs to sell the N-CORPE land while protecting their legal ability to pump water as necessary to fulfill our compact obligations. This past

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session, I decided if legislation was needed to ensure the N-CORPE would be protected and if the NRDs decided to sell the overlying property, that I should take responsibility for that. Over the interim, I have studied the issue and discussed with the entities and many others what such legislation would have to look like to ensure N-CORPE would be protected. After discussing their concerns and how the-- how to adequately address them in statute, I reached the conclusion that there is no statutory language that would provide the NRDs with the assurances they need. It became clear to me that there is no language we could come up with that's better than what is in place. What is in place is the Estermann case in which the Nebraska Supreme Court held to the principle that the right to use ground water is tied to the ownership of the land above it. If the N-CORPE board wanted to sell the land purchased for the project, they can do so now. They have decided that the risks associated with selling the property are not worth any potential benefits to be gained. Why would we change the laws which, as they have been interpreted by our Supreme Court, provide insurance-- assurance to the N-CORPE board that they need to operate the project for the good of Nebraska? Any change creates an unnecessary and unreasonable risk. The N-CORPE project is protected now under current statute as interpreted by the state Supreme Court. I believe it's the best interest of the state to allow the project to continue with no changes in the law. There are members of the N-CORPE board who are involved and the involved NRDs here to explain their

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positions. So with that, we'll open up for testimony. And there's no proponents, opponents. You come up as you're-- you feel comfortable. You have three minutes. We will be enforcing that because I am assuming there are quite a few people who would like to testify this morning. So with that, whoever would like to go first?

TERRY MARTIN: I would.

HUGHES: All right. Just jump up. Welcome.

TERRY MARTIN: Good morning. My name is Terry Martin, T-e-r-r-y M-a-r-t-i-n. I am the chairman of the board of directors of the N-CORPE project. I live in Dundy County, about 50 miles west of here, where I farm and raise cattle. I'm also the chairman of the board of the Upper Republican Natural Resources District in that part of the state. That prior-- that NRD owns the Rock Creek augmentation project. And just for the first 20 years of my life, I did work as a licensed professional engineer doing water research project-- water resources projects all across the Midwest. First of all, just let me give you a little bit of background. And I'm going to abbreviate this because Senator Hughes already talked about the legalities of it. But the main thing is that the irrigators are paying \$10 an acre for a local solution to a local problem. And the idea of the augmentation project came up during the time when we were being sued by the state of Kansas for noncompliance with the-- with the compact. The augmentation

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project was probably the best of all the solutions that we had come up with. And it's worked out really well. It allows us to put the exact amount of water into the river system at the exact time that it's supposed to be there, and it-- it takes care of all the obligations we have to downstream water users. And that's true both in the Republican and in the Platte River system. We also-- we have other obligations. But again, the augmentation projects allow us to take care of those in a very good way. It's-- it's a very good project for the state of Nebraska, and all people in the state of Nebraska benefit from it. And as Senator Hughes says, we're here to discuss the possibility of selling some of that land. When-- the pros and cons of selling the land have been discussed by the boards ever since these projects were in the planning phases. We as farmers and ranchers realize the assurance that we get by owning land, and we all kind of believe that no state agency or government agency should own more land than is necessary to provide the services that they're charged with providing. And that's-- that's-- I believe that. I still believe that. I think we should not own more land than we absolutely necessarily need. So please believe me when I tell you that I believe that N-CORPE and Rock Creek should continue to own the land that-- excuse me, that they-- they do own. And we-- simply put, it gives the people in the southwest portion of the state of Nebraska a lot more protection than not owning the land. The sale of the land can endanger the project in several ways. The way the-- the laws are written, especially the archaic law,

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common law that says land and water are interconnected, the more water you pump, the more land you have to control. And we don't want to be in a position where we violate that law. We feel like we are in compliance with that law at this time because we abide by the rules that the NRDs set up for other water users, and we don't pump any more water than what the irrigators were pumping when they were farming this ground. The risk of selling some of that land is just too great for the project. There's another set of parameters that you haven't probably talked too much about and that's how the project's financed. When we built the project, we-- we sold bonds. The bond owners have certain rules we have to abide by. And then when we refinanced the bonds to get a lower interest rate, we bought bonding insurance, and that bonding insurance lowered our interest rates because it took some of the-- took some of the risk away from the bond holders.

HUGHES: Mr. Martin, your light's on. Could you wrap it up, please?

TERRY MARTIN: OK. So anyway, the rule of the bonding companies and the bonding insurance companies don't allow us to sell the land except under extreme conditions, and we haven't met any of those extreme conditions there so. The project continues to send money to Lincoln because we make-- we've maximized the income that people out there can-- can make, and it also helps the state of Nebraska meet their financial obligations across the state.

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HUGHES: Thank you. Thank you. All right. Hold on. You don't get off that easy. Any questions?

TERRY MARTIN: Oh, good. Yes, sir.

HUGHES: Senator Gragert.

GRAGERT: Thank you, Senator Hughes-- Chairman Hughes. Thank you for your testimony.

TERRY MARTIN: Sure.

GRAGERT: Quick question. Have you sold any of the initial land that you've bought on N-CORPE?

TERRY MARTIN: Originally we sold-- on the N-CORPE project, we sold off two-quarters, but we're so far away from the project that they did not affect any part of what we were doing. But we used that money to purchase other land that was closer to the project, so sold but traded actually is the-- is the-- is what-- and in Rock Creek, we've sold none of it. Yeah.

GRAGERT: I know we have the NRD manager from Lower Niobrara here.

TERRY MARTIN: Um-hum.

GRAGERT: I'm familiar with a-- a water, well, well that they operate west of Creighton. They don't seem to own all the land that they're

pumping that-- that well's pumping water out of. What's-- what's the difference--

TERRY MARTIN: Probably--

GRAGERT: --of having to own the land?

TERRY MARTIN: Honestly probably none. There are-- even the town that I live in has city wells outside the city limits, and they don't own a lot of land there. We've been told by legal counsel, they're probably in violation of laws because they don't own land around it. But he also-- nobody's going to sue the city and take their water away from them. So the same set of laws apply to all of us.

GRAGERT: Thank you.

TERRY MARTIN: Yeah.

HUGHES: Other questions? Senator Halloran.

HALLORAN: Thank you, Chairman Hughes. When you traded, did you trade quarter per quarter, same number of acres? Did you gain acres?

TERRY MARTIN: We tried to keep-- you can't say exactly the same number of acres for the same number of acres, but approximately the same.

HALLORAN: Approximately-- approximately what? Approximately what was the trade? Do you remember exactly what [INAUDIBLE]?

TERRY MARTIN: There was, I think, 330 acres that we sold, and then we've bought back some land. And we're still in the process every day of trading some land around because there were some tracks away from the project that we just felt we would be a lot better off if we had it all consolidated in one place.

HALLORAN: You still didn't answer-- the question I have is, you sold off two-quarters, roughly 320 acres?

TERRY MARTIN: Um-hum.

HALLORAN: And you bought how many acres?

TERRY MARTIN: In the realm of things, we probably bought about the same amount. And that's-- I know it's a vague answer, but when we bought some of the other ground, we might have bought more, but part of it was bought with that money that we used-- that we got from that sale.

HALLORAN: So you don't-- you can't tell me how many acres you bought?

TERRY MARTIN: I can't right off the top of my head. Some-- maybe some of the other people can tell you that when they come up here.

HALLORAN: OK. I appreciate your testimony, Mr. Martin. You used-- you used the phrase archaic common law?

TERRY MARTIN: Well, it's a common law that's-- it-- it was-- it's been in the constitution basically from the very early days when the Constitution for Nebraska was written. And it says that if you're going to pump water on the surface, you need to control an appropriate amount of land on the-- on the surface. Pump water out of the ground-- and so if you pumped a small amount of water, you need to control a small amount of land. And the more water you pump, the more land you have. That law's, the attorneys tell us, it had never been used or challenged. But it's there, and it could be used against us if we're not in-- in line.

HALLORAN: Here's the issue with common law.

TERRY MARTIN: Um-hum.

HALLORAN: Common law is the base law for us to provide statutes to clarify specifically laws for our state and better define those laws. Are there statutes in place now that govern N-CORPE's augmentation statutes?

TERRY MARTIN: There-- each one of the NRDs has a set of rules and regulations on how much water you can pump.

HALLORAN: Are there state statutes that apply to N-CORPE's augmentation for the compact with--

TERRY MARTIN: There are state laws. It doesn't tell us exactly how much water we can pump because the state transfers that responsibility to each NRD because conditions and parameters in each NRD are slightly different.

HALLORAN: OK. So the water-- the water is tied to the land use, correct? What is the allotment for the NRD in which N-CORPE resides? This is the per acre allotment. [INAUDIBLE]

TERRY MARTIN: There's-- it's-- let's see. The two NRDs set about, I think it's 12 inches per acre, and that's about what the irrigators had before.

HALLORAN: OK. My question-- the reason I ask that question is what if Kansas decides that they need more water to satisfy their compact? And we're tied to 12 inches per acre times the number of acres N-CORPE has, and N-CORPE can't satisfy Kansas' demand for that. What do you do then? Do you have to buy more land?

TERRY MARTIN: I don't think Kansas can demand more water because the Republican River Compact is pretty clear on how much they can have. And it's our responsibility to get them the volume of water they want. And we feel right now with the Rock Creek project and the N-CORPE project, we can do that. To be honest with you, if we have to pump a little more-- well, let me back up and say it this way. We don't just have an allocation for one year. We can pump a certain volume of water

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over a ten-year period, and we can use more this year, less that year, and on through and take us through that. So it has some flexibility that allows us to duck the punches I guess if you want to put it that way.

HALLORAN: OK. I appreciate that. I don't know how many people have had the opportunity to read the language in the proposed bill, the statute that very, very clearly specifies that augmentation to satisfy the Kansas compact will be protected. But the land can be sold. It's very, very clearly defines that-- that there can be separation by a statute.

TERRY MARTIN: Um-hum.

HALLORAN: Common law, again, is the base law, but we can legislate statutes that define-- more narrowly define to satisfy the needs for Nebraska. So that being the case-- and I have talked with the Attorney General's Office and they said it substantially protects augmentation to satisfy the compact. If you separate the land and sell the land--

TERRY MARTIN: Yeah.

HALLORAN: --keep the wells, keep the underground pipe, then that satisfies the compact. Are you not comfortable with the clearly defined statute that says augmentation is protected?

TERRY MARTIN: The answer to that is the statutes are not the only thing that prevents us from selling land. Statues could be changed.

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The problem with statutes is you never-- they're uncertain, and people can change them or some of them or make them swap around different, different meanings in them. But the way the project's financed also has a lot to do with that. The bonding company has a lien on the property, and the bonding insurance people have a set of rules that tell us how much water-- I mean how much land we can sell off of it and still not endanger our financing. If we were to sell too much land, the-- the-- the clause, I think, says that land can be sold as long as it does not endanger the project. That's the bonding company's language. If we lost the bonding insurance, that would mean we would lose the \$13 million savings that we're getting because of the lower interest rate. If we lost that, the bonding companies would probably insist we re-- refinance it at a much higher interest rate also because they have more risk. And so people would end up paying more and having less a-- excuse me, less assurance that they would get a consistent supply of water for the farmers.

HALLORAN: Do the bonding requirements require that you satisfy the compact?

TERRY MARTIN: No, not really.

HALLORAN: Oh. OK. OK. OK.

TERRY MARTIN: They know what it's for, but they realize the jeopardy they put themselves in by loaning us money for sure.

HALLORAN: But you can sell off a portion of the land in increments according-- with-- in agreement with the bonding agreement, right?

TERRY MARTIN: If it does not endanger the project and be--

HALLORAN: What's the project?

TERRY MARTIN: The project, the N-CORPE project.

HALLORAN: N-CORPE project, but what is the N-CORPE project? It is to protect the augmentation primarily, right?

TERRY MARTIN: Did I not turn that off? I am so sorry. I am absolutely sorry. I thought I turned that off. I apologize. Say that again, just so I'm clear.

HALLORAN: It's to protect the project, the N-CORPE project.

TERRY MARTIN: Right.

HALLORAN: Fund-- fund-- fundamentally the N-CORPE project is to satisfy the compact in-- in the--with Kansas.

TERRY MARTIN: And-- yeah. And in-- and also in the Platte. Yes. There are obligations each one of the four NRDs have to fulfill on a regular basis.

HALLORAN: So if you have a clear statute that separates the land from the water and protects the augmentation project and the NRDs--

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requirements for the local NRD, what is-- what is the risk if it's clearly defined in law, not common law which is--

TERRY MARTIN: Yeah. OK.

HALLORAN: --archaic, right? Those were your words.

TERRY MARTIN: The number one risk is we don't know how legislation is going to get through the Legislature and how it will actually come up. And we-- we want to give the people as much assurance as we can. The other thing is, oh, I'm not sure how to say this but, anything that could lose-- that could cause that project to fail would cost multiple-- multiple million dollars to the local economy and to the county assessor for tax. The value of the land would drop. The property taxes would be reduced in all 16 states because if we lose the project, we would-- the alternative is to reduce the volume of water that irrigators can have access to and maybe complete shutdowns in certain years. And when that happens, the value of the land drops because you can't raise as much of a crop on it. And when that happens, the-- the county assessors, the county can't charge as much property tax. And it also reduces the volume of money coming into the district because we don't have as much crop, we don't sell as much crop. And so that-- that is a huge impact on the economy of 16 states in the southwest corner of Nebraska.

HALLORAN: Sixteen counties? So but there were a lot of hypotheticals there. But the reality is there's, what, 16,800 acres?

TERRY MARTIN: Yes.

HALLORAN: How many-- how many acres in the--

TERRY MARTIN: Nineteen thousand six hundred approximately.

HALLORAN: Nineteen thousand six hundred acres, and those are off the tax rolls effectively.

TERRY MARTIN: Well, taxes have been paid on them.

HALLORAN: How did-- how did they pay the taxes?

TERRY MARTIN: We-- through Senator Hughes's bill, we got permission to pay what's called in lieu of taxes. A political subdivision can't pay taxes, but we have the opportunity to pay in lieu of taxes. So whatever this county assessor would have collected on that land in its present state, we do make that payment every year, and we have--

HALLORAN: You don't make that payment. Where does that money come from?

TERRY MARTIN: From the-- from the occupation tax that the 16-- the irrigators and 16 counties pay to us. And it's a-- last year it was about \$170,000.

HALLORAN: So that occupation tax is based-- is-- is-- is taxed on every acre in those-- in-- in the--

TERRY MARTIN: In the 16 counties, yes.

HALLORAN: And so you're taxing people to pay the tax.

TERRY MARTIN: Exactly.

HALLORAN: OK.

TERRY MARTIN: If not-- you can't say we're paying a tax. We're paying in lieu of a tax by law.

HALLORAN: Yeah, but you're covering the tax responsibility.

TERRY MARTIN: Yes. And let me just say that that's the only rea-- you know, a political subdivision shouldn't have to pay taxes, but only 1 county in 16 took the hit on the amount of property they can't tax. Lincoln County lost some tax base. None of the other counties did. This occupation tax comes from all 16 counties, and so that makes it a little bit more fair so that all 16 counties are actually contributing to the pain we caused Lincoln County by taking some of that land off the tax rolls. So you know, that's how I justify it in my mind.

HALLORAN: Thank you, Mr. Martin.

HUGHES: OK. Senator Gragert.

GRAGERT: Thank you, Chairman Hughes. Just a couple of follow-up questions to all that.

TERRY MARTIN: Sure.

GRAGERT: The-- so the irrigation tax, the \$10, and then the other-- the other tax, could you tell me of the 19,000 acres, who's maintaining it and how much does that cost?

TERRY MARTIN: N-CORPE maintains it. We've converted it all from irrigated farmland to native pasture land. I can't give you an exact dollar, but there was money available because we sold off all the irrigation systems and stuff. And that money came back to us, and we used a lot of that to-- to rehabilitate and de-fence the property. It takes anywhere from seven to-- our range management specialist, seven to ten years to get a solid stand of grass out there. But I think we have like five different groups now that actually lease some of that land and use it grazing. We-- we are going to open bids again here in the near future for more grazing about-- out on that land. So it's--money's coming in to help pay for the-- for the rehabilitation of that land.

GRAGERT: Will it ever get to the point where it's self-sustainable?

TERRY MARTIN: Yes.

GRAGERT: It will?

TERRY MARTIN: Yeah.

GRAGERT: In the year what?

TERRY MARTIN: Well, like I said, from seven to ten years from the time that we stopped irrigating it so.

GRAGERT: So grazing alone will maintain-- or the renting of-- or grazing will maintain the maintenance on the land and the operation-- or even maybe pay the nine-- in lieu of taxes.

TERRY MARTIN: Well, the last set of land leases that we accepted were actually a little higher, maybe 10, 15 percent higher, than what native rangeland in the surrounding area was bringing in. So we're-- we're at the market. We-- and if a farmer can make his rangeland sustainable at that price, so can we. Yeah.

GRAGERT: So this was irrigate-- was the majority of it irrigated [INAUDIBLE].

TERRY MARTIN: There was-- there was 150 center pivots on it. It was owned by a New Jersey hedge fund. And they-- they had this as an investment for capital, but they also farmed it. Just that wasn't their primary purpose. Their primary purpose was to let their capital-- land prices go up, and then they would sell it. And they did. But yes, they had 155 center pivot irrigation systems out there.

GRAGERT: So changing it or making it to rangeland, you've already brought the amount, the value of the land down.

TERRY MARTIN: Sure. It was probably worth \$6,000 maybe an acre then. It's probably worth \$750 now. But that's not the whole picture because our debt against that land at the time was probably about \$6,300 an acre. We've paid some of it down. So now, I can't give you a number exactly but, let's just say it's worth \$4,800 an acre now. That's the value it has to us. And so if you want us-- and our bonding company says we have a debt of \$4,800 an acre against that land. Why would you want to sell it for \$750? That doesn't make sense to them because then they no longer have the ability to recapture the capital they've loaned us. We have an option. I hope we never have to use it. But if the project failed, we could convert all that back to irrigated land and sell it back again at irrigated land value. Nobody else can do that.

GRAGERT: So are you looking at any other-- any other options as far as other than grazing to possibly raise revenue on that-- on that 19,000 acres?

TERRY MARTIN: Oh, there have been a couple of offers from people. There was a couple of people that wanted to raise-- wanted to produce eggs for the California market because eggs in California have to be cage free. And they cost a lot of money out there to raise chickens so

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they want to-- neither one of those projects came about. We've had two or three information meetings about maybe alternate energy on that. And-- and then occasionally we just get an oddball call. You know, it's a large open area, away from population, so, you know, they can have their privacy out there so. If something like that came up that fit the project, we would consider that, I'm sure.

GRAGERT: You still have to go through the planning committee in the counties to have any operation like that?

TERRY MARTIN: Sure. Yeah. Yeah. Absolutely.

GRAGERT: Thank you.

HUGHES: Any other questions?

HALLORAN: Quick question, Mr. Chairman, if I may.

HUGHES: One more.

HALLORAN: How many people are employed by N-CORPE?

TERRY MARTIN: Three.

HALLORAN: Yourself and?

TERRY MARTIN: No.

HALLORAN: No? [INAUDIBLE]

TERRY MARTIN: We have a manager. We have a range manage specialist, and then we have a-- a-- a guy that's been there since forever that knows the land like the back of his hands. He does everything. He takes care of all the wells and all the-- the electronic stuff that turns the wheels on and off, takes care of all the valves and the pipelines and stuff like that, so three people.

HALLORAN: OK. Thank you.

HUGHES: Other questions? I guess I want to touch just a little bit more on the taxes. So the property taxes, or the in lieu of property taxes, that you are-- you are paying now, so the counties are receiving property taxes for the land as that is valued by the assessor, is that correct?

TERRY MARTIN: It is, yes.

HUGHES: And that is both for N-CORPE and Rock Creek.

TERRY MARTIN: Yes, it is. That's correct.

HUGHES: OK. And you-- the-- both of those projects has always paid those taxes from the beginning.

TERRY MARTIN: Always. Yes.

HUGHES: So the counties have not lost any property tax that was due them.

TERRY MARTIN: Yeah, that's right. That's exactly right.

HUGHES: OK. I just want to make that very clear.

TERRY MARTIN: That's the proper wording for that. Yes.

HUGHES: OK. Any other questions? Thank you, Mr. Martin. Appreciate your testimony.

TERRY MARTIN: Thank you guys for coming. We're glad you're here.

HUGHES: Thank you. Welcome.

KENT MILLER: Thank you. Good morning, Mr. Chairman and members of the committee. My name is Kent Miller. I am general manager of the Twin Platte Natural Resource District, and our offices are in North Platte. And the Twin Platte NRD is one of the four NRDs that formed the interlocal body that created N-CORPE. We appreciate Senator Hughes introducing LB114 and scheduling this hearing. LB114 is an orderly approach rather than some of the other options that are presented-- been presented before you.

HUGHES: Pardon. Pardon. What?

_____ : Could he speak in a microphone?

HUGHES: Oh, we don't have a microphone. We're just recording. So if you would speak up, please so they can hear you.

KENT MILLER: I will try.

HUGHES: OK. Thank you.

KENT MILLER: I know this is a difficult room, and I hope I didn't lose some of my time. But for the Twin Platte NRD, the N-CORPE project is an important part of our augmentation water that's required in the state-mandated integrated management plan. The N-CORPE project provides 4,000 acre-feet annually for the Twin Platte NRD, and that's based on regulations that have been placed on the land by the Twin Platte NRD and the Middle Republican NRD. And so this is a-- the N-CORPE project is a significant part of the augmentation water that we're required to put into the Platte River Basin. Our first ten year for that integrated management plan required 7,700 acre-feet be placed in the river annually. So that 4,000, it was part of that 7,700. It's become even more important because this year that was increased by the state to 25,000 acre-feet. So we have a huge amount of water that we have to place in the Platte River system because of the state-mandated integrated management plan. Now as Senator Hughes pointed out, there are a great amount of risks that are associated with selling the land. And we're concerned about those risks. Now in my testimony, and I'm not going to try to read them but, I gave you two examples of risks that we see if that land were sold. If you determined that legislation separating the ground water from the land for augmentation projects should be further considered, then you should place conditions of

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sovereign immunity and indemnification for the NRDs. In other words, that's to protect us as NRDs. The-- another example I wanted to talk about if you determine that the land-- that you need to separate the water from the land, this is a risk that's a statewide risk. This is not a risk that's simply associated with the N-CORPE project and with the Rock Creek project. And I would encourage you to consider a collaborative process if you determine that you need to consider further separating the water from the land. Yeah, I wanted to give you an example of a collaborative process that's worked very well in Nebraska in the past. In 2002, the Legislature put in motion the appointment of a Water Policy Task Force, and that Water Policy Task Force was to look at integrated management of ground water and surface water. That task force was composed of 49 members. I was there when that started. I didn't think there was a chance in the world-- I mean, you as the Legislature have 49 members, but I didn't think a task force with 49 members could come up with a recommendation. After a two-year process, they did. And that recommendation was brought to the Legislature, and legislation was passed virtually exactly as that task force recommended. So task forces do work. The Legislature also formed a Water Funding Task Force following that legislation for integrated management of ground water and surface water. That worked because that created-- you created the Water Sustainability Fund, and that has been used to fund some of the requirements that were required that came out of integrated management of ground water and surface water. So I urge

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you, don't rush to change this law of separating the land from the water. All you got to do is look at Colorado and what they've faced because there, they do have a separation of the land from the water. So please don't rush. As Senator Hughes pointed out, the Supreme Court has-- has ruled that the N-CORPE project today works.

HUGHES: Thank you, Mr. Miller.

KENT MILLER: Thank you.

HUGHES: Are there questions? Senator Bostelman.

BOSTELMAN: Thank you, Mr. Miller, for being here today. Could you just tell me which NRDs your try-- your representing what is it?

KENT MILLER: Well, I'm representing the Twin Platte Natural Resource District.

BOSTELMAN: Now which ones are involved-- which natural resource districts are involved with this?

KENT MILLER: OK. The-- the three natural resource districts in the Republican Basin are the Upper Republican Natural Resource District, the Middle Republican Natural Resource District, and the Lower Republican Natural Resource District. And we're I guess kind of the outsider, but we're the lone natural resource district from the Platte Basin that's been a part of this. But this has been a very important component of our state-mandated requirements in our integrated

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management plan. And it just-- it fits so perfectly on the border between the Republican Basin and the Platte Basin in regard to providing this augmentation water to the river basins.

BOSTELMAN: Thank you.

HUGHES: Other questions? Seeing none, thank you, Mr. Miller. Welcome.

JACK RUSSELL: Good morning, Chairman Hughes and the committee that's here. I'm Jack Russell, I'm the manager of the Middle Republican NRD, J-a-c-k R-u-s-s-e-l-l. And since you're in McCook, I need to welcome you to the Middle Republican NRD. That's where you're situated right now. We have four counties in the southern part of Lincoln County that-- that I can't mention. With three minutes, I'm just going to hit a couple highlights why the Middle Republican NRD believes this is an effort we're looking-- worth looking at. If there is a legal means of-- of being able to sell the land, we're very supportive of that. I don't think we or anybody else wants to risk the augmentation project, but if there is a way to make this happen, there are certain things that it would benefit the Middle Republican NRD. First off, the project has the highest economic impact on Lincoln County. You've heard that. And more specifically within the Middle Republican NRD with- over two-thirds of the N-CORPE plan lies within the Middle Republican NRD, and about a third of it is in the Twin Platte NRD where the land base is. There was a study that was completed by Dr.

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Eric Thompson, University of Nebraska, Lincoln. N-CORPE had this study done. And what it shows, and I-- and I attached a executive summary, what it shows is that there is actually a negative overall impact of the project when you look at the whole project as a whole. And it gets-- it gets a little complicated, so if you get a chance, I would say, take a look at that. And if you wanted, you could get-- go and get the whole study from-- from Dr.-- from Dr. Thompson. I do think it's helped illustrate why the Middle Republican NRD would like to look at the potential of having the right to maybe get it back in the-- back in to private landowners. Right now the four NRDs are currently using taxes collected to make those in lieu of tax payments. It would be an economic driver to get this land back in private hands and let the private generate that income. The other is the operating budget at N-CORPE. We've heard different, you know, you've heard different-- you've had testimonies before, you've heard different things, where where the budget's at. And I know it's been thrown out there anywhere from \$400,000 to \$1.5 million operating budget. And that doesn't include our bond payments that each one of us makes every year just to-- just on our land payments. But what I would encourage is that the N-CORPE just-- we're in the process of passing a budget. I would encourage everybody to go ahead and get a copy of that if they could and see what that approved budget is. I know there are some-- there are some locked costs in there if you look at salaries, in lieu of, costs, demand charges, insurance. Just that alone adds up to over

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\$600,000 a year. And that's why if we could sell-- if we could possibly sell the land and put that back in private and then we would cut some of these costs back, we wouldn't have to be paying taxes. We wouldn't have quite the operating costs that we're finding that it's costing us. And we did support the last effort by Senator Groene where his bill narrowed down-- just focused on the ability to sell the land. The Middle Republican has always been proactive looking for legal means to have the option to sell the land to N-CORPE while protecting the augmentation project. The Middle Republican does not intend to support selling the land unless it's an effective and viable option. The Middle Republican is not pushing to sell the land today, They are wanting the potential to sell the land as an option. Land management and economic drivers are best in the hands of the private sector. And I will end on that, even before I get cut off.

HUGHES: That a boy. Thank you. Any questions for Mr. Russell? Senator Halloran.

HALLORAN: Thank you, Chairman Hughes. Thank you, Mr. Russell, for your testimony. I haven't had a chance to look at any part of the budget for N-CORPE, so this is-- this is quite enlightening. Previously you mentioned there are three employees?

JACK RUSSELL: Yeah.

HALLORAN: And here you say that looking at the salaries, there's \$275,000 in salaries.

JACK RUSSELL: That and-- and that would include benefits and everything else that fits within that-- that budget.

HALLORAN: Are there any openings? [LAUGHTER]

JACK RUSSELL: Not that I know of right now. No.

HALLORAN: So your-- your NRD is open to the option of the option--

JACK RUSSELL: Yes.

HALLORAN: --to sell but not the requirement to sell.

JACK RUSSELL: No, definitely not the requirement but the option, yeah.

HALLORAN: Sure. OK.

JACK RUSSELL: They-- they-- they'd want to do it if it's prudent and it makes sense.

HALLORAN: And it [INAUDIBLE]

JACK RUSSELL: I mean if the-- the way the economic is now if it's downturn, it's like there's no way. But if there is a way and it makes sense in the whole scheme--

HALLORAN: And it protects the-- and it protects the augmentation.

JACK RUSSELL: Yes, it has to protect the augmentation. Yeah.

HALLORAN: OK. Thank you, Mr. Russell.

JACK RUSSELL: Yeah.

HUGHES: Senator Bostelman.

BOSTELMAN: Thank you. Thank you, Mr. Russell, for being here. Could you explain to me-- you used the words in here, effective and viable option. Explain that to me.

JACK RUSSELL: As far as for selling it?

BOSTELMAN: Um-hum.

JACK RUSSELL: It-- the effective and viable would be as if the-- if the price is right, if it works with the-- our-- our funders that-- you know, you can make it work with them and if it-- just that if it makes sense. You know, if the price is so far down there that it really doesn't make sense to sell it, it makes more sense to lease it if you have to.

BOSTELMAN: So if-- so if Kansas and the compact doesn't agree and it's going to sue, is that part of the effective and viable? Or are you just looking at the financial side? I'm trying to understand.

JACK RUSSELL: No, you have to-- you would have to look at everything if Kansas steps in with some lawsuit that might have some impact on

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it. I know earlier when it was talked about if Kansas wants more water there is a lot of different backstops besides-- a lot of different ways to meet compact besides just in court so.

BOSTELMAN: So if it was sold and if there was a lawsuit and if we lost that lawsuit, how many of you-- what impact would that have on the irrigators in your district? How many would have to be shut down to meet the need?

JACK RUSSELL: Right now the backstop is-- I think it's 50,000 or 60,000 acres in the rapid response area in the Middle Republican. There's a potential for more than that. It just depends on what-- what would happen within the compact and what's required of Kansas.

BOSTELMAN: Right. So the question I have is how many irrigators would have to stop irrigating if we're out of compliance and if that was the call?

JACK RUSSELL: I would say now probably 60,000 acres. I don't know how many irrigators that would be.

BOSTELMAN: That's fine.

JACK RUSSELL: And it would just be based on a year to year if we are within compact or not.

BOSTELMAN: Fair enough.

JACK RUSSELL: But that's all-- that's all within an IMP that we're working on now, updating our IMP, so some of that stuff could change also.

BOSTELMAN: OK. Thank you.

JACK RUSSELL: Um-hum.

HUGHES: OK. Senator Halloran.

HALLORAN: Mr. Chairman. Thank you, Chairman. My rudimentary understanding of the law is in the case of litigation for lawsuits, there has to be damage. So Kansas-- this idea that Kansas is going to sue, they'd have to sue for noncompliance of the compact, right? And the compact's very narrowly defined. And if the augmentation that's currently in place is protected by statute and is implemented and continued, they're receiving their water, there would be no grounds-- there'd be no damages for a lawsuit. I mean I am a little concerned about throwing out this scare tactic that there could be a lawsuit and then consequently people are going to have their irrigated acres shutdown. There has to be damages and if a statute narrowly defines that augmentation is protected, there will be no damages. It's more of a statement than a question I understand but--

JACK RUSSELL: OK. Right. And again, augmentation supports meeting compact. It's not the only means of meeting compact. Within our IMP, there's a lot of different other ways we can meet compact. You can use

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surface water to meet compact. You can use storage water to meet compact. You can do-- I mean so there's a lot of different options. And part of the thing driving the IMP and-- and meeting compact with Kansas is we will meet compact with Kansas by one means or another. This is one of the more important means that we have to guarantee that we are, but we will meet that compact.

HALLORAN: Thank you, Mr. Russell.

JACK RUSSELL: Yeah.

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

JACK RUSSELL: Thanks.

HUGHES: Welcome.

JULIE STENGER: Good morning. I'm Julie Stenger, I'm the Lincoln County Assessor, J-u-l-i-e S-t-e-n-g-e-r. Thank you for coming out here today to visit with everybody here. Like I said, I'm Julie Stenger. I'm the Lincoln County Assessor. I, like you, am elected to office by the local taxpayers. And I take an oath to represent them and their best interests to the best of my ability all the while also following the laws of the Nebraska state statutes as they are written. I am reading you this brief letter to go on record of my testimony for my full support of the amendment to LB606. With this letter, I would like to point out a few items of concern about the N-CORPE water augmentation

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project in Lincoln County which was implemented by the collaboration of four local NR-- or four natural resource districts. First, I want to start by saying that I'm not opposed to the water augmentation project itself and after speaking and meeting with many of the concerned taxpayers, most of them are not opposed to the augmentation project either. The majority of the concerns are with the way the project was implemented, the lack of transparent-- the lack of transparency and accountability, and the way the project has been handled and managed from the beginning and continues to be managed. I do appreciate that Senator Hughes and Senator Groene have recognized legislation needed to be written to clarify the limits of the natural resource districts. LB758 did somewhat help the political subdivisions within Lincoln County keep tax dollars on the tax rolls with a suggested-- suggestion of an in lieu of tax being paid by the augmentation projects. However, the NRD's only source of income is through levying taxes or implementing an occupational tax which-- in turn, these taxes levied and occupational taxes implemented are footed by the local Lincoln County taxpayers. The taxpayers of Lincoln County deserve a better solution. The amendment to LB606 could be part of this solution. This amendment would allow the NRDs to do their augmentation projects without actually having to own the surface land. They may choose to sell the land or maybe would never even have to own the land in the first place. Augmentation projects could be implemented by the NRD separating and retaining the water rights from

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the surface land in areas where an augmentation project is needed.

This would be a much better solution. NRDs should not be landowners.

Taking property off the tax rolls and land out of production causes

enormous economic impacts on already heavily tax-burdened Nebraska

taxpayers. The surface land is not being used for any public purpose,

and N-CORPE did stipulate to this back during the TERC hearing. So why

do the NRDs need to own this land? The Twin Platte is already

separating, selling, and even moving water rights to different

properties and across county lines which occurs numerous times

throughout the year. N-CORPE itself has actually done this with some

land that was purchased in the original sale for the augmentation

project. They sold some land but retained the water rights to it. And

also back-- it was mentioned earlier. I don't believe when they sold

those two-quarters at the beginning that they did turn around and

purchase something right at the same time. So I beg to differ that

anything was purchased when they sold those original pivots that were

separate from the project. Actual logic-- actual legislation that

states that would allow water projects to separate water rights from

surface land and be able to sell the property would definitely allow

the N-CORPE project to sell all the land back to the local farmers and

ranchers and get the land back on the tax rolls. This not only

benefits the political subdivisions levying for taxes, it would also

not put the burden of paying an in lieu of tax on all the taxpayers in

Lincoln County. The taxes would be paid for by the actual landowner.

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This would also bring significant agricultural economic benefits back to this area of Lincoln County too. This could help secure a long-term solution to a more secure tax base for Lincoln County, not having political subdivisions worry from year to year if the augmentation project may pay the in lieu of taxes or not. The amendment to LB606 would be a win-win situation for everyone. I see my light is on, so I don't know if I'll get to finish my letter, but you guys have copies of it so.

HUGHES: Thank you.

JULIE STENGER: I did also attach with that letter kind of a spreadsheet of what the valuations occurred throughout this project at the time it was purchased in December of 2012 to current.

HUGHES: OK. Thank you very much. Are there questions?

HALLORAN: Quick question, Senator-- Mr. Chairman.

HUGHES: Yes. Senator Halloran.

HALLORAN: If I may. You made the comment-- thanks for your testimony, by the way.

JULIE STENGER: Uh-huh.

HALLORAN: You made a comment that they sold some land but retained the water rights to it.

JULIE STENGER: Um-hum. Yes. When they sold those two-quarters that, as I stated earlier, they set clear away from the original project. This land, you know, wasn't contiguous. It set quite a way-- distance away, so they were irrigated quarters. I believe there might be something presented to you later in a-- I think from him. Maybe Mr. Mossman is going to have a copy of those deeds that-- of that sale, and right in there it states that-- that they retained the water rights. So that land was sold without any water rights, so it had to be converted to dryland.

HALLORAN: Is-- and I'm asking you a question. I don't expect you're the right person to answer the question, but it seems like they separated the land from the water.

JULIE STENGER: That is correct. And like I said, that-- we see that quite often, you know, in the Twin Platte. A lot of times people will-- they call it bank their water rights. Maybe they have some dry corners on a pivot, so they'll decertify those acres. Sometimes they move it to another piece of property that they want to irrigate. They can maybe put a bigger pivot. If they don't have any place to put that water, they're allowed to, what they call, bank those water acres. They've decertified them from this property, this land, but they are banking those water acres to do something with them at a-- at a different time. A lot of times they even sell them to a different landowner, and that even occurs across county lines. It's within the

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same NRD. But maybe a taxpayer up in Arthur County in the Sandhills has no need for water, so they'll sell it to somebody in Lincoln County. And we see upwards from \$2,000 to \$3,000 an acre they pay just for those water rights, and that's done in the Twin Platte all the time.

HALLORAN: Thank you.

JULIE STENGER: Um-hum.

HUGHES: Other questions? Seeing none, thank you for your testimony.

JULIE STENGER: Thank you.

HUGHES: Welcome.

KENDRA STROMMEN: Thank you. My name is Kendra Stroman, K-e-n-d-r-a, Strommen is S-t-r-o-m-m-e-n. Today, I am presenting a legal opinion that was written by Steven Mossman. He writes a nice introduction to you on the first part of this that I am not going to take time to read. You can take the time to read that. And in this opinion letter, he lays out a lot of case law. He starts through Olson v. City of Wahoo which establishes the owner of the land is entitled to the appropriate waters underneath the land. And he goes through this-- this is-- it's just pretty heavy reading, so I'll let you do this back at your office, pretty heavy case law. I will take you to the top of page 5. At the bottom of page 4, he writes a section called adverse

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consequences or risks, and then he goes on to the top of page 5 where he talks about some of the things that are bothering people, such as the security interest that is taken by the land by taken by creditors. Or the second issue is separating the amount of water withdrawn from the amount of the land owned. And the third issue is, of course, a hypothetical situation wherein the city of Denver would begin pumping and transporting large amounts of water to Denver. And he talks about why we should not be too concerned with these issues. So the first issue where he's talking about the proceeds of the sale of N-CORPE's land could be applied toward the outstanding bond, thus satisfying the debt. He says, in fact, a review of the records in the Lincoln County Register of Deeds office reveals that a partial release of the real estate mortgage was filed by Union Bank and Trust Company to allow the N-CORPE sale to Lowe Investments, LLC. And that's referenced behind here in Exhibit B. There are a number of creative solutions that may be used to this end. For instance, certain parcels could be sold immediately with remaining parcels returning to private ownership over a period of years as the bonds are repaid. Simply put, there is no valid legal reason to prevent exploring these issues with the current creditors. The second issue, of course, is the-- is the ground water issue, and he states that-- that there are regulations in place for well spacing and they're reasonable and beneficial use, that's in quotes, requirements set forth. Each of the various NRDs have adopted rules and regulations restricting ground water pumping. A return of

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the land to private ownership while retaining the ability to N-CORPE to operate its wells would not require any further regulations or laws which are already in existence. Because we're-- we're restricted on time, I'm going to skip to the finale here. And basically Mossman's conclusion is there is no explicit statutory act enabling an augmentation project like the N-CORPE project. Thus, the explicit statutory authority provided in LB606 would actually protect the ability of N-CORPE to continue to pump ground water for augmentation. In many ways, the Estermann case leaves unanswered questions. Thus, giving the projects such as N-CORPE the statutory guidance provided in LB606 would actually strengthen, rather than risk, the long-term viability of the project. So it's a positive thing for your N-CORPE project.

HUGHES: Wow. Thank you.

KENDRA STROMMEN: How about that?

HUGHES: Are there questions? Senator Gragert.

GRAGERT: I-- just-- real quick. Thank you, Chairman Hughes. On page-- on page 6-- and I just briefly-- and I don't know, it sounds like he was very thorough going through this whole process. Page 6, last paragraph, last sentence, I further do not-- do not anticipate any increase in risk. With all this that you just covered with this, couldn't it be more than anticipating? Couldn't it be I would not

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expect or I would not-- definitely wouldn't see any further risk or additional risk?

KENDRA STROMMEN: I don't know if that was a poor word choice or what he intended there as this is his legal opinion. I know that he is open if you want to give him a call. I'm sure he would sit down and meet with you about it.

GRAGERT: All right. Thank you.

HUGHES: Other questions? Seeing none, thank you, Ms. Strommen.

KENDRA STROMMEN: Thank you.

HUGHES: Next up. Welcome.

RANDY ROBINSON: Thank you. Thank you, committee. My name is Randy Robinson, R-a-n-d-y R-o-b-i-n-s-o-n. I farm with my family in southern Lincoln County near the N-CORPE project. So first off, we are irrigated farmers. We farm in both Middle-- Middle Republican and the Twin Platte NRD districts. I fully understand the need and the importance of protecting the water augmentation project, but let's look at the rest of the picture. This-- as discussed a little earlier, N-CORPE is costing well, most numbers I've seen, well over \$1 million a year to manage the overlying land, not pumping water, not the well costs, but managing the overlying land. You've seen the budget numbers that are coming out. Of course, it was brought up about will this

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become sustainable? There's not enough acres of range land to ever pay that kind of a budget of operating expenses, in my opinion. That's real money. I don't believe that the intention of the NRD system is to become a large landowner in order to lease out the use of the ground. And now, once again, we're hearing about maybe wind and solar energy development plans. I don't believe that that's within the scope of the NRDs either, to get involved in those type of projects, and I don't know if it's in the best interest of our area. I guess Fairbury's in favor of that. Maybe we should talk to the people in Cherry County. Seems like there's some discussions going there. But it seems to me as though a huge burden could be lifted from the NRDs economically, and in a lot of ways, by allowing the sale of the ground water and allowing them to get back to their intended responsibilities. I read in an N-CORPE minutes from their September 4 meeting that Senator Hughes stated that if something is working, then leave it alone in a reference to N-CORPE. And I believe from his perspective, he believes it is working. He's a farmer in the Upper Republican NRD district. The Upper Republican, the Lower Republican would be the two districts that receive the benefits of the augmentation project by paying the occupation tax alone. They haven't had to take the tax base loss, the economic loss, when it's not the utilization of their local resource going down the pipeline. Once again, his legislative district would reap the benefits in the same way by paying the occupation tax but would not be involved in local economic drain. So maybe it does work

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in their areas, but it certainly does not work for everyone.

Legislation that is passed to define the water augmentation project as public use and allows for the sale of the overlying land does several things. First, it protects water augmentation project much better than common law which it's currently based upon. Secondly, it would bring back control locally. Lincoln County has carried burden of lost revenue and natural resources for the good of all. Let's minimize the negative effect of the project, and let's certainly stop them from growing. This year alone, they have taken four more irrigated quarters out of production and are looking to take more. Lastly, it would take the burden of managing a large landmass off the shoulders of the NRDs and allow them to allocate resources to what their intended purposes are. Thank you.

HUGHES: Thank you. Are there questions for Mr. Robinson? Mr.-- Senator Bostelman.

BOSTELMAN: Thank you, Mr. Chairman. I want to clarify something you just said. You said they just took four more quarters off. Did they buy four more quarters or was it existing within that 19,000? Just explain that.

RANDY ROBINSON: They had-- OK. In the original land purchase, there's eight quarters, irrigated quarters, set east of Highway 83, if you're familiar with the logistics, not-- not connected to the project. They

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did a land swap with four of those quarters to a landowner, a farmer, on some land that was just set across the road from the main project area.

BOSTELMAN: Um-hum. Um-hum.

RANDY ROBINSON: So they swapped four. Then they sold the other four to him.

BOSTELMAN: Um-hum.

RANDY ROBINSON: So in that process-- those eight quarters that they owned prior to this would have been being leased out as irrigated ground. So that was on the tax base as irrigated ground.

BOSTELMAN: Right.

RANDY ROBINSON: So in the process of the swap, we took four more out of irrigation [INAUDIBLE].

BOSTELMAN: But that didn't just happen. That happened sometime ago during the whole process of the purchase of land.

RANDY ROBINSON: This would be the first current farm year. It happened within the last twelve months I believe. I'm sure [INAUDIBLE] could give you exact dates.

BOSTELMAN: OK.

RANDY ROBINSON: But not-- this isn't referring back to the two-quarters we were talking about earlier, you know, this isn't-- this is recent.

BOSTELMAN: So it's new purchases of quarter land.

RANDY ROBINSON: It was a land swap on four circles and then they sold four more. So they're selling ground off. They did sell four quarters off is my understanding. And-- but four others-- pivots that they owned, that N-CORPE had that was purchased, that had been leased out to a farmer--

BOSTELMAN: Um-hum. Um-hum.

RANDY ROBINSON: --they traded for four that that farmer owned close to the project, OK? So-- so we had 12 quarters that were being farmed, and in the swap, there's now 8 being farmed and 4 more would have been converted to-- to the N-CORPE project.

BOSTELMAN: OK. Thank you. [INAUDIBLE]

RANDY ROBINSON: It seems as though they're trying to gain more and more acres which if we separate it and put it in as [INAUDIBLE] with this law, the need to keep expanding ground and taking more away from Lincoln County would be stopped.

BOSTELMAN: OK. Thank you.

HUGHES: Senator Gragert.

GRAGERT: Thank you, Chairman Hughes. So they bought four more irrigated quarters cropland?

RANDY ROBINSON: They had eight quarters that had been purchased at the original, in the original investment, OK? So they set up away from the project in the Twin Platte District. Those had been-- since the purchase they've been leased out as irrigated pivots. There was four pivots that set close to the project, so they swapped with this farmer for them. The farmer himself improved his position because he moved out of the Middle Republican where currently there's pumping restrictions into the Twin Platte where there isn't. Understandable from-- from his standpoint. So he had been farming the four down here that N-CORPE now has. So they're no longer farmed. They've went-- the water, I assume, will be pulled off the same as the rest of it and will go to a dryland value. So the tax loss from the irrigate value to the drylands there. And the-- so then the other-- so that four of them were swapped even deal, but then they pulled the water off them. So that dropped the value of those four pivots. So instead of having twelve irrigated now there'd be eight irrigated for dryland. And then the other four they sold to the same producer.

GRAGERT: Before they swapped, the irrigation went back to the original-- or the original four then. I mean he was irrigating before he sold them to--

RANDY ROBINSON: Right. But the eight that they had were irrigated as well at that point. They hadn't been dried up like the rest of the ground--

GRAGERT: All right. Thank you.

RANDY ROBINSON: --which is where the tax losses came from.

GRAGERT: All right. Thank you.

HUGHES: Other questions?

HALLORAN: Mr.. Chairman.

HUGHES: Senator Halloran.

HALLORAN: Thank you, Mr. Chairman. Thank you, Mr. Robinson, for your testimony. I think it can't be overstated. I think you stated it very well when you said legislation that is passed is defined-- legislation that is passed to define the water augmentation project as a public use, such as municipal wells from municipalities which aren't required to have a landmass tied to the amount of water pumped, and allows for the sale of the overlying land does several things. It protects water augmentation project much better than common law. That can't be

overstated. It's-- it's-- that's very much the case. And the fact that they have to keep buying land because it's tied to land use, to your point--

RANDY ROBINSON: Which is-- was the reason for this land swap--

HALLORAN: Right.

RANDY ROBINSON: -- was to get more acres tied to them.

HALLORAN: And there's-- there's no limits done how much they might have to do more purchasing because it's tied to land use, right, versus public use which would allow them with the land that they have to pump unlimited amount of water with as many wells as they have I would assume. Thanks for your testimony.

HUGHES: Other questions? I guess I have just a couple. So first off, when-- were you aware that this massive chunk of ground was for sale before the NRDs bought it?

RANDY ROBINSON: I had heard talk that it was up for sale. Sure.

HUGHES: OK. So it was general knowledge that it was for sale.

RANDY ROBINSON: Yes. I believe so.

HUGHES: OK. Very good.

HUGHES: So the-- and you're not on the N-CORPE board?

RANDY ROBINSON: No.

HUGHES: OK. So the four quarters that they sold, do you know what they're doing with that money? Are they looking for land closer to their project or are they paying down debt or do you know what they're doing with that?

RANDY ROBINSON: That-- that's-- at this point in time, they have not paid down debt according to records. I talked, you know, with [INAUDIBLE] speculation is that they're--

HUGHES: So you're just speculating on what-- OK.

RANDY ROBINSON: --looking for more but I do not know.

HUGHES: That's what I needed. OK. Thank you, Mr. Robertson. Any other questions? Seeing none, appreciate your testimony. Next testifier? Don't be shy. We don't bite very much, very hard. Welcome.

SHAD STAMM: Thank you for the opportunity, Senator Hughes and committee. I'm Shad Stamm, S-h-a-d S-t-a-m-m. I'm a farmer-rancher from Dundy County which would be in the Upper Republican NRD. I'm here on behalf of myself. I do serve on the school board at Dundy County Stratton. I guess I'll begin my testimony by the fact that we're talking a lot about N-CORPE which is tremendously larger than the Rock Creek augmentation project, but I'm more aware with our augmentation project at Rock Creek because I sit on the school board and see the

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taxes. So we-- we have been aware of that for quite some time. And again, it's not near as big as N-CORPE. Senator Hughes, there was a lot of conversation about taxes. That seemed to be the big argument, at first, about augmentation projects and loss of taxes for governmental entities. Senator Hughes got a bill passed, and I think one thing, it's an in lieu. But another important aspect of his bill is that it was retro-- retroactive. And I know in the case of the Republic-- or the Rock Creek augmentation project, the NRDs had been paying the taxes all along. They'd been held in escrow. The school districts and counties and whatnot had not got it because there was some contention to whether it was legal or not. So they had always paid it up to that point. His bill clarified that and it was retrospective, so the government entities got that money plus everything going forward in lieu. I guess listening to testimony today, one call-- I know we're talking about common law, we're talking about state statute, but I keep hearing the fact about risks associated. Risk associated-- maybe there won't be risks associated. I do understand the bonding aspect of it and the ability to get the better rate on the bonding and the financing. And that means no risk. I also heard the question up here asked about legal action. Well, it's been pretty apparent to me through all the years of all this compact compliance, there's always plenty of legal action to be taken. And I don't think as a bonding agent or a financing company, they're going to find much traction. I think we've got pretty good precedents that

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there's-- there's history there. I see my lights up, so I'll stop. But I guess my concern is I'm paying \$10 an acre to operate both projects. It's not just people in Dundy County, people in Lincoln County, we're all paying it and all the NRDs. And I guess I think there's just too many risks associated with diverged-- separating land and the water as far as the financing. And I think there's some pretty dramatic things that could happen if the projects become defunct or not a-- a viable option. I guess that's my point. I'll stop there.

HUGHES: OK. Thank you Mr. Stamm. Were there questions? Senator Bostelman.

BOSTELMAN: Thank you, Chairman Hughes. Thank you for being here testifying today, appreciate it. You may or may not know the answer to this question, but someone behind you may, and they can say it when they come up.

SHAD STAMM: Sure.

BOSTELMAN: So my question is-- is do you know how much is owed now by N-CORPE on-- on what they have?

SHAD STAMM: I'm not 100 percent positive. I think it's-- I, and do not take this as gospel, I've heard in the realm of \$132 million.

BOSTELMAN: That's fine. OK. That's fine. I just-- I'm-- that's one number I would like to know.

SHAD STAMM: I mean somebody probably behind me can give you that answer better--

BOSTELMAN: I understand. That's fine.

SHAD STAMM: --but that's what I'm telling you. Don't take it as gospel. That's just what I've heard.

BOSTELMAN: Thank you. I appreciate that. Thank you.

HUGHES: Other questions? Seeing none, thank you, Mr. Stamm. Next testifier? OK. Welcome.

KEN ANDERSON: Thank you, members of the committee. My name is Ken Anderson. I'm a resident of Lincoln County and I have some written testimony to provide for Kirk Olson of North Platte. LB606 is a logical way to give some much-needed tax relief to this group. LB606 is a win-win for the irrigated landowner and for the NRDs. If the NRDs keep their water augmentation project, the landowner hopefully will get a reduction in their taxes due to the land sale proceeds being a born-- excuse me, being applied to the bond payment. This is a commonsense approach to a reach-- to reach a compromise between these two groups. I would like to direct your attention to the N-CORPE meeting minutes which he has provided to the members. If you look at the section titled Financial Statement, specifically where it starts with Jerry Weaver asked for the confirmation that \$2 million that was in the escrow account was actually from the land trade/sale reserved

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for the purchase of additional land. It was confirmed that the funds were taken from the land trade/sale. Then please refer to the section titled Lease Options that deals with five-year leases as only 80--180-day leases and the renewability. There are certain specific questions regarding capturing government payments to be added to the leases and how Rock Creek is collecting those payments. Apparently they receive about a half million dollars and N-CORPE could receive up to \$2 or maybe \$3 million. That way, no money would be left on the table. And finally, the section that is titled Alternative Power which involves state-- that Scott Dicke has met with Invenergy, a company based out of Chicago. That is a project developer for wind and solar energy. This is a interest-- there is an interest in putting wind and solar energy out on this surface estate. All of these issues are landowner issues-- issues that deal with the surface interests. These issues take a lot of time and energy. They also created large legal fees for attorneys to review these contracts to make sure that all the steps have been taken in proper manner. By passing LB606, these burdens will be removed from the NRD's and N-CORPE's shoulders. This is another win-win solution for these groups. Less time, energy, and lawyer bills-- bills means less expenses that need to be paid by the taxpayer.

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

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KEN ANDERSON: Um-hum.

HUGHES: Welcome.

MARVIN KNOLL: I'm Marvin Knoll, M-a-r-v-i-n, Knoll, K-n-o-l-l. I'm a coowner and operator of Knoll Ranch and Farms, and we have been supportive of the water project from the time it began. And we operate in the Twin Platte and the Middle Republican, and I've never said a bad word about the water project because supposedly it helped us build a-- just keep us out of trouble in water. But when it comes to N-CORPE land, it's a totally different subject. We've been against them holding the land because the operating expense far "outceeds" the income they take off of it. And now, according to the N-CORPE minutes, they want to put a wind turbine on the farm. Our land borders the farm on the south and the north and the east side. And I guess if I lived in the Upper Republican or the Lower Republican, I'd be in favor of lowering my occupation tax, but I live 2.5 miles from the farm. I'd rather pay \$15 an acre and not have a wind farm than I would \$5 an acre and have a wind farm up there. And as far as the tax which we've talked about, yeah, they've always paid taxes. But when you take the 19,000 acres and probably 13,000, 14,000 acres of it irrigated, when you take that down from \$60 an acre down to \$7 or \$8 dry land, that's a pretty good size hit for Lincoln County too. So now we want to put in wind farms and send more money out to the other districts, and we're going to take that out of Lincoln County. If it was all going to

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stay in Lincoln County, may be a different deal. But thank you, and I appreciate your support for LB606 and amendment.

HUGHES: Thank you Mr.-- thank you, Mr. Knoll. Are there any questions? Thank you. Appreciate it. Welcome.

KELLY RAICHART: Hello. Chairman Hughes and members of the Natural Resource Committee, my name is Kelly Raichart, K-e-l-l-y R-a-i-c-h-a-r-t, and I'm a farmer and cattle producer in Dundy County. Thanks for allowing me to testify. Included in what we farm is close to about 800 acres of irrigated land in what is known as in the rapid response area. This is close to the Republican River-- River and its tributaries and would face severe water regulation and could be prohibited from being watered at all if it weren't for the augmentation projects. There are more than 40,000 rapid response acres in the Upper Republican NRD. Our land, along with those 40,000, would have been prohibited from being irrigated or faced drastic cuts for five consecutive years had it not for the Rock Creek and N-CORPE projects. Those years were 2013 through 2017. We have-- next thing, we had concerns about the Upper Republican NRD continuing to own the Rock Creek property in Dundy County which includes about 5,000 acres. But the passage of Senator Hughes's bill that allows the NRDs to pay in lieu of taxes on the ground has relieved those concerned. If this was sold, there would be no tax benefit to the county because the natural resource district is already paying the county an equal value in lieu

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of taxes. If the county is not losing any money as a result of the Rock Creek not being formed, then we need to protect the irrigators within the rapid response area. Now we have another concern. Why are we even considering selling the land and changing water law, to-- to do so if it risks the investments us and thousands of other farmers have made in the augmentation projects? The irrigators, not the state, are paying for these projects to help the state maintain compliance with the federal compact. So I think you must consider the risk you would be exposing us to with litigation that would have any "change" of initiating a lawsuit if the land was sold. Separating ground water access from land ownership, even if you tried to apply the change to the augmentation project, would be a major shift in Nebraska water law. If the land was sold and a successful lawsuit prevented the projects from being operated, we would periodically not be able to irrigate our land in the rapid response area because of that action. The only the people that would be benefited were able to buy the N-CORPE or the Rock Creek land. That sort of mess would keep the attorneys busy for years and put the state on the hook for millions of dollars in damages to Kansas if we weren't able to comply with the compact. In closing, let's keep the thousand irrigators, who are paying for the project and who aren't here today, in mind when you consider this issue. Like any issue, the people who don't like the status quo make the most noise, and it can lead to the wrong impression, in this case, that the majority of people would like the

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land that would like the land to sell. I can assure you, that's not the case. The majority of farmers want to continue to be able to farm with the help from projects they are paying for. Thank you.

HUGHES: Thank you Mr. Raichart. Questions? Seeing none, thank you for testifying today. Welcome.

JERRY FRIES: Thank you. My name is Jerry Fries, J-e-r-r-y F-r-i-e-s. I'm a commissioner of Dundy County representing Commissioner District 1. Our concerns are we have not received any in lieu of money taxes. The second half of 2, 7-- 2017 taxes have not been paid, no 2018. The law reads, as I understand it, that the NRDs may pay in lieu of taxes. So I want people to realize that in any given year, none of those property taxes have to be paid. And I think that's something that people need to be aware of. It's voluntary for them to pay it. It's not required. That's the point I wanted to make.

HUGHES: OK. Questions? Senator Halloran.

HALLORAN: Thank you, Chairman Hughes. So the second half of 2017 and all of 2018?

JERRY FRIES: Have not been paid.

HALLORAN: And what do they say about that? What is the--

JERRY FRIES: Well, we're going to pay it. We're going to pay it.

HALLORAN: But so we run across this a lot in the Legislature. The-- singular words are very important. And you point them out, "may" versus "shall." "May" gives them the option. "Shall" requires them to do whatever. In this case, pay in lieu of tax. And they haven't been paying for that period of time?

JERRY FRIES: They have not paid Dundy County any yet.

HALLORAN: Thank you, Mr. Fries.

HUGHES: Have they-- they've paid all the taxes from the beginning of the Rock Creek project, those--

JERRY FRIES: Yes, they was paid--

HUGHES: --property taxes in lieu of--

JERRY FRIES: --up until the court ruling and the law was passed. We have not received any funds since then.

HUGHES: Do you know have-- has the Upper Republican put that money in escrow for you?

JERRY FRIES: I cannot answer that. I do know they paid the N-CORPE taxes because we checked. But they have not paid Dundy County.

HUGHES: You have not received those funds--

JERRY FRIES: We have not received those funds.

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HUGHES: --doesn't mean they haven't paid them.

JERRY FRIES: I checked with the county treasurer just a few minutes ago, and she has not received anything yet.

HUGHES: OK. We'll look into that.

JERRY FRIES: Thank you.

HUGHES: Thank you. Any other questions? Thank you, Mr. Fries. Welcome.

JASPER FANNING: Thank you, Mr. Chairman and members of the committee. My name is Jasper Fanning, general manager of the Upper Republican Natural Resources District. And the-- and the issue on the in lieu of taxes is simply a little bit more complicated in Rock Creek because we already had a Supreme Court decision that said that we shouldn't pay taxes. And so what we have right now is we have-- we've paid all the taxes. We-- because of the-- the court ruling and the legislation that was passed, they gave us the ability to take those payments that had previously been paid illegally as taxes and consider those in lieu of payments. The county has those. But what we have is the TERC ruling that came down in the Supreme Court case only covered the first few years. The later tax payments that we were charged and made and-- and there's a second TERC case that had not yet been heard, and the ruling did not affect that outstanding TERC case. And what we've-- what we've had is we've had discussions with Dundy County. I don't know why our attorneys haven't yet been able to come up with a resolution, but we

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essentially need-- need Dundy County to say in that resolution that they will live with the Supreme Court ruling for these tax years and will then convert those tax payments to in lieu of payments and make them legally. But as it-- as it stands right now, we have an outstanding TERC case until it's dismissed by the-- by the parties that-- you know, we already have a ruling. And we know how the court would rule in those following years because the facts haven't changed. But there is an outstanding case there that's preventing us, in-- in-- according to our attorney, from legally making in lieu of tax payments because the county for those years did not designate those properties as tax exempt. And we're only allowed to make in lieu of payments on-- on the parcels that have been designated as tax exempt. And so we simply-- once-- once the attorneys work through the complexities-- complexities of this and we have a resolution from the county that says those-- for those years they'll consider those tax exempt, then we can legally make in lieu of payments on those. It's not that we aren't going to pay them. The money's there. It's-- it's-- it's just waiting to change hands. But the law allows us to make in lieu of payments on parcels that were designated by the county as tax exempt. But because those years didn't follow in the original TERC case and they're in the second case that's kind of in limbo here until the parties dismiss it before TERC because I think we're in agreement with Dundy County, there's no sense in having a second Supreme Court hearing on the same issue. That issue will be resolved. And there's a

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good chance the two attorneys don't do a very good job of explaining that process to folks because it is kind of a-- kind of a jumbled-up mess. But we have a solution for it. We're-- we're working on getting that implemented once we have resolutions by the boards adopted, so I wanted to clear that up. Senator Bostelman, you also asked a question. The outstanding principle's about \$88 million on the N-CORPE bonds.

HUGHES: Are there other questions? Senator Gragert.

GRAGERT: Thank you, Chairman Hughes. Are you-- do you agree with that statement the last individual just made, taxes are voluntary, not required?

JASPER FANNING: The legislative bill was-- was drafted as voluntary and I, you know, I think the legislative history on that was if you make it mandatory, it's-- would be a lot easier for a court to say it looks like you're paying taxes because it's mandatory, and so the choice was for it to be voluntary. But again, our board has committed to-- to making that payment. And unless-- you know, I don't see that changing.

GRAGERT: Thank you.

HUGHES: Senator Bostelman.

BOSTELMAN: Thank you, Mr. Chairman Thank you, Mr. Fanning, for being here. Just clarification or information from your education for me. If

the county identifies that parcel ground as tax exempt, if that ground is sold, does the county then come back-- what happens to that tax exemption? I mean is that--

JASPER FANNING: The tax exemption would go away.

BOSTELMAN: Is that automatic?

JASPER FANNING: Assuming-- assuming a private individual purchased it--

BOSTELMAN: Right.

JASPER FANNING: --then they would no longer qualify for it as exempt.

BOSTELMAN: So is that-- right. So is that an automatic or does that go back to TERC [INAUDIBLE]?

JASPER FANNING: No, that's an automatic.

BOSTELMAN: OK. Thank you.

JASPER FANNING: Yep.

HUGHES: I have one question. Has the Upper Republican in your budget budgeted money to pay the taxes to Dundy County that are owed?

JASPER FANNING: We have.

HUGHES: OK. Any other questions? Seeing-- Senator Halloran, excuse me.

HALLORAN: Thank you, Senator Hughes. It's a lot of muddy water. Bottom line is that county isn't reason-- I mean it's in escrow. You paid it. It all looks good on paper, but they don't have the revenue, right? If it's in escrow, they haven't received the funds.

JASPER FANNING: Correct.

HALLORAN: So it looks good on paper that you're paying it, and good for you, you're paying it. But to the satisfaction of the county, the county doesn't have that satisfaction of having that money. It's being held up in TERC or whatever, is that correct?

JASPER FANNING: But-- yeah, but they-- they know that it's coming, and they know that it won't be long before it gets there.

HALLORAN: I project a 250-bushel crop. I know it's coming. I really don't know it's coming. I really don't know it's coming. It may come. But-- so the point I'm trying to make I guess in the form of a question how can we satisfy these folks at the county level that they're going to receive their monies in-- in lieu of property taxes but receive those property tax funds? How-- how can we satisfy their-- how can we satisfy them? They have expenses that they have to deal with.

JASPER FANNING: Absolutely. I think they've been satisfied. The legislation gives us the clear legal authority to do it to some extent, you know. And I don't know why their-- if their legal

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counsel's advising them otherwise, but we have a court case. We have a ruling. We know what it is. Live with it. Alls they have to do is designate those parcels as tax exempt as the Supreme Court said they should be, and the issue is solved.

HALLORAN: Don't you think we can simplify the situation a lot by allowing the augmentation to be protected, to sell the land privately and then those individuals pay-- pay the property taxes privately?

JASPER FANNING: Well, there's certainly unintended consequences with those types of actions. I mean all of these things can't be considered in a vacuum. You have the tax issue. You have the water issue. You know, we had people up here talking about water rights in Nebraska being transferred. News flash, there are no water rights with respect to ground water in Nebraska. You have the license to use water, provided it-- it's within the natural resources district's rules and regulations. This notion of people-- people talk about stuff on the street in layman's terms in terms of selling water rights. Well, you don't sell water rights. We have moratoriums in Nebraska that prevent the use of water and development of new uses. The only way you can get a new uses-- new use in most of western Nebraska under the rules and regs of the NRDs is if you offset it by retiring an existing use. So if I want to irrigate a new quarter, if my NRD would allow me to do that, I have to find someone who will stop irrigating a quarter, and I pay them to do that. People on the street say, well, he bought that

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water right and moved it over here. No, because that-- it-- A, it wasn't a water right. B, it's using a well over here. I'm going to use a new well, so it's obviously not withdrawing water in the same place. It's-- it's an accounting system that NRDs have developed, each their own, because we're required under state statute to comply, for the state, with the Platte-- cooperative agreement in the Platte, and the compact in the Republican. And so-- so all of these issues that have been brought up by people, as if they're kind of in a vacuum, are all interchangeable. Selling the land, even if it solves a tax problem, creates a whole new-- new set of headaches for us. We know from our well-field designs and the time frames in which we had to put things in for compact compliance, N-CORPE, for example, Rock Creek is the same way, is designed for the well-field footprint to be expanded. So if we sell off the land, all of a sudden we have to-- we have to figure out what kind of easements we need to hold to access that expanded footprint where the pipeline is designed to go, how we gain access, how we pay for damages associated with that, all those types of things like, you know, not-- not too different than oil companies deal with. But we all know what kind of-- kind of checks oil companies have to write when they want to come onto your land and-- and build a road and drill a well and-- and those types of things. So again, it's-- it's not in a vacuum. And I think we need to be very careful to consider all these things together because that's how the NRD boards have to look at these. It's not just if we sell the land, we have a

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whole lot less expenses. We also have a whole lot of other things to consider in risks of future litigation. And there's been a lot of discussion about future-- future litigation, and we have attorneys who say it's, you know, in his opinion not likely or whatever words-- words he used. But we have Senator Groene on the radio the last two weeks talking about how he's going to sue if we pump more than 16,500 acre-feet or how he hopes someone will sue us. So I think those-- those litigation threats are real.

HALLORAN: So if I-- in addition, you made the comment that it's-- that it's design-- both Rock Creek and N-CORPE are designed to be able to expand the footprint.

JASPER FANNING: Yes, for water management reasons. And-- and there's some uncertainty, especially with Kansas, on-- on the timing of water deliveries, durations of droughts, those-- those types of things. If we don't have to pump much water, a smaller footprint like we have now is adequate, but if we have to pump larger volumes of water or for longer periods of time ever, spreading that footprint out so that you have a larger impact on the aquifer spatially but less depthwise impact is in the best interest of us to manage those well fields from-- from a cost perspective as well.

HALLORAN: With public use, would there be-- there wouldn't be as likely a need to expand the footprint because right now, it's tied to

land use, right, where you're limited on how many acre-feet or inches that you can pump?

JASPER FANNING: No, the footprint has to do with the hydraulic properties of the aquifer. And so-- so how far we need to spread that well field out over time if we do--

HALLORAN: Is the aquifer shallow there?

JASPER FANNING: The aquifer is not shallow there, but it also doesn't have large gravels.

HALLORAN: OK.

JASPER FANNING: So it has-- we have areas that have shown higher drawdown because we have that concentrated pumping. And in those areas, we would benefit by having more wells spread out over a larger area, pumping less from each well.

HALLORAN: Thank you.

HUGHES: Any other questions? Senator Bostelman.

BOSTELMAN: Thank you. I want to go in the lead a little bit further on what we're talking about right here.

JASPER FANNING: Sure.

BOSTELMAN: So are you talking about-- when you talk about expanding a well field, are you talking about expanding it within the project as it is now? So in other words, simplistic, draw it in four quarters. We're in the top northeast quarter of-- of the project, and what you're looking at is moving to the northwest corner with some wells that may need to balance this out, not necessarily-- or are you speaking that you would have to go out and-- to a new area, buy more land, do those type of things? Could you explain that?

JASPER FANNING: The design as it is now is designed to expand, as you-- as you suggested, on our existing property from the west-- or to the west. The pipeline is designed to extend to the west, to add more wells west of where the current wells are located. Now there was some discussion earlier about trading of land. And when we purchased all of the property, it was always known that there were ten quarters that were east of the highway that were well away from the well field. And there was no-- if we retired those in that location, there is no real hydrologic benefit in the area where we're pumping water or it significantly lagged. And so we always knew that, you know, ideally if-- if given the opportunity, we would sell or trade those in order to purchase property or trade for property around our well field to insulate other landowners from any-- any pumping impacts and to help ourselves out by having all of our land in one block and expand that footprint that we own around our well field. The bonding requirements

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require that you reinvest those funds from lands that are sold within two years. And so you have up to two years to reinvest that or-- or it's-- it's escrowed in the meantime. And then it'll be used to pay down the debt if it's not used for land purchases within those two years. The original-- the original two quarters, that money was escrowed. And I think ultimately, if my memory serves me correctly, that those funds were actually used to pay for part of the construction costs of the pipeline and the well field because that's land and that was all interchangeable within-- within the bond issue. It was allowed for both of those purposes. And then so-- so we've-- we've sold ten quarters, eight of them as irrigated, the original two as dryland. And there was some discussion about we separated the land and water on that. What happened was our attorney took a belt-and-suspenders approach. You know, it was dry land as we-- as we sold it, but because N-CORPE's four different NRDs, part of-- part of the reasoning behind the belt-and-suspenders approach was the Middle Republican NRD could have granted a variance to allow someone to transfer acres or, as it was discussed earlier, begin irrigating that if they stopped irrigating something else. Because we don't have any role or control over that and that was the highest SDF [PHONETIC] property that we'd purchased, we took that belt-and-suspenders approach so that we held-- we hold an easement on that that disallows the irrigation of that property. And that's what they're calling the separation of the water right. We just-- we just wanted to ensure that

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that property under no circumstance would ever be irrigated again. And that was-- that was the reason for that second layer of protection.

BOSTELMAN: Thank you.

HUGHES: Other questions? Senator Gragert.

GRAGERT: Thanks, Chairman Hughes. Could you-- just real quickly, I don't need a hour dissertation on this. But the-- down to Kansas, you know, we weren't supplying the amount of water, right, which brought this all on. Surface water was the-- was the initial issue. We weren't able to supply enough-- or we weren't supplying enough water to Kansas. So then N-CORPE comes in, and you can start correcting me when I go off in left field, and we start pumping water, ground water. What-- do we get to bank water, first of all? And then if we don't and we-- are we doing this year by year? Because I'm sure we'll probably pump-- enough surface water is going that way right now that we-- probably not even pumping any ground water I would assume.

JASPER FANNING: Right. Obviously Kansas doesn't need more water right now nor do they want any more right now. It's a surface water compact. And-- and through the litigation that's-- that's occurred between the states, there's a settlement agreement. And that settlement agreement has-- has complex calculations of compliance based on how much water passes each of the stream gauges and calculations. And under normal times it's a five-year average that dictates compliance. When water

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supplies are low, it's a two-year average that dictates compliance.

And so it's always-- it's a surface water compact, so it's always a surface water problem. Very early on, we-- we-- about the time LB701 was passed, and LB701 in part was passed because of deals that we were working on and working with the Legislature to fund, we relied solely on surface water and paying surface water irrigation districts to not use water to release to Kansas for compliance. That was-- that was before we had a way to fund projects like N-CORPE. Now that we-- now that we have N-CORPE, we have the, you know, and we're not pumping new water, essentially we retired irrigation. So that same volume of water is now what we're using instead of for irrigation to provide to Kansas. We're now providing that water as-- in the first year it was as necessary to comply with the-- the settlement agreement of the compact litigation. In more recent years though, we-- we went down to Kansas, Nebraska collectively. The state Department of Natural Resources and the NRDs were involved, met with their secretary of agriculture and their team and water-- water folks, and worked out a better deal. Because through litigation, they wanted all that they were entitled to under the compact, OK, and that was a huge volume of water. But what they don't have is the ability to store it so they can use it, OK? So there was a little bit of negotiating so that Kansas water users would have more water available to use when it mattered, OK? And N-CORPE gives us the ability to time water because we can choose when we turn on and off the pumps. So with respect to banking,

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Kansas has the ability, if they ask for less than what they're entitled to, they have the ability to bank that in the ground. And in years-- in years when it's wet and we're not under a compact-- what we call a compact call, that actually-- their-- their bank water goes away. Like they're-- I think they'll lose 20 percent of it this year, and there's about 9,000 acre-feet banked if memory serves me correctly. But so we've actually given Kansas less water than what they're entitled to because of these better working relationships which in large part were only possible because of N-CORPE and Rock Creek projects being developed. Kansas, you know, it takes some time. I think the cooperation we had this year with Nebraska Bostwick-- or excuse me, well, both Nebraska Bostwick and Frenchman Cambridge Irrigation District-- Frenchman Cambridge Irrigation District, Harry Strunk was going to fill up regardless, was-- was in it, actually was even better than we would have anticipated at the time. And they released water early, before they normally would have, before the reservoir filled, to get it to Harlan County to impact the accounting numbers so that we would get out of-- out of the two-year average. It worked. Obviously the spring was-- was exceptionally wet. So Nebraska got put in a lot better accounting position. But the reason that-- that Frenchman Cambridge was-- was able and willing to make that-- that call to do that, and let that water out of the reservoir, is because they had assurances from us that, hey, if Mother Nature

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doesn't fill your reservoir back up, we have the N-CORPE project and we can replace that water.

GRAGERT: So in other words, we're their reservoir?

JASPER FANNING: We are, and-- and-- and the advantage to us now is we used to be their reservoir under the compact with all of our surface water reservoirs. But that water evaporates and/or gets sent down the system maybe at the wrong time for-- for-- if compliance is your goal. With these other underground reservoirs where it doesn't evaporate, we have the ability to hold it for longer, and we can manage the timing of it by when we turn on and off the pumps. It gives us some different advantages, but the surface water system's still a big part of compliance and the accounting as well.

GRAGERT: But isn't there any concern then that, you know, we're in this-- a lot of water right now, and we may get into the years where we're dry. Then, you know, we weren't passing the water on. We were holding it. But now they are requiring more, so we're going to take more irrigated land out of production to supply that water in dry years.

JASPER FANNING: Well, I wish I had a crystal ball.

GRAGERT: Yeah, I hear you.

JASPER FANNING: And I don't. But-- but-- but those are my concerns as well. Things look really good right now. So you know, just take a little bit of risk that you don't need to expand the project, sell off the land, whatever. Well, if it does get really dry for an extended period of time and we need to expand that well field footprint, you know, I-- we're doing other things. But a lot of the other things we're doing, they have a really big price tag. And-- and they don't provide a whole lot of water in the year that we need it for compact compliance. And so we just-- we just did a-- took bids on retiring irrigated lands in the Republican Basin, OK? We have about between 10,000 and 15,000 acres that are enrolled in CREP, retired for 10 or 15 years. We need to make that permanent because we don't need that coming back on line and being irrigated. So we-- we used to be able to put away some money, and we did through our three-cent levy that we no longer have. So we-- we pledged \$4 million as matched to the state's \$6 million from their Water Resources Cash Fund. We got bids well in excess of the \$10 million that we had available, but we can't retire anywhere near 10,000 acres for \$10 million, OK? We can-- hopefully through this process, we'll get 3,000 or so acres retired, but we've then used up our funds that we have available. It takes us about four years or so to scrape-- with our three-cent levy that we no longer have, it took us about four years to scratch together that \$4 million, but we still have those ongoing needs for further retirement in our district. Some of that will happen through regulation, but these

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targeted retirements, you know, like I said, we just committed \$10 million, four of it ours, six of it the state's. And we probably need to do that a couple more times over the next 20 years to keep-- help keep things in balance for the long term. And our allocations will keep going down. But it was asked earlier how-- how much would we have to reduce irrigation by if we didn't have these projects. And the answer is-- is a little bit complicated, but you need to understand this. If we wanted to go with equitable allocations or reductions in irrigation across all irrigators in the Republican Basin, if you had ten-- ten center pivots, you would shut off six of them. And you could irrigate with four. Sixty percent reduction in irrigation immediately and forever, that was option one. Option two was essentially, and three, were two versions of, well, a lot of those wells don't have a significant impact on the stream. So just shut off the people right next to the stream that have a high impact on the stream. And that's what Mr. Russell referred to when he said they had, I think the number he threw out was 60,000 acres. There's-- there was a little over 100-- about 120,000 acres throughout the basin that would have been shut off any time Kansas needed water in a compact call year. OK, put that in perspective. This is the first year that we-- well, even this year's a compact call year. Now maybe they wouldn't have been required to be shut off this year or not entirely but we've went a series of years as compact call years. So without the augmentation projects, which the agreement with Kansas, those-- those folks could be shut off half the

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time or more when it matters most. So for a lot of reasons, our district and the other districts really, even though-- even though we put on paper that we were going to go with the rapid response area shut down and impact the fewest number of people possible, that didn't sit well with-- with especially those folks who were going to get shut off. But just irrigators in general, they didn't like the idea of only shutting off the people right next to the river. So when we put that rule and regulation in place, as did the Lower Republican, we made some pretty serious commitments to-- to our irrigators that were in those areas. And in our commitment was finding these augmentation opportunities, and that's when we developed Rock Creek. Shortly after the purchase of surface water, we identified some-- you know, we went through the study process, identified areas, and-- and bought a farm for \$10 million when \$10 million was hard to come by.

GRAGERT: One final question. I'm sure the NRD's probably working on an integrated management plan. Are we working-- do these NRDs-- does everyone that irrigate have an irrigation management plan, you know, the producer individually and flow meters on there?

JASPER FANNING: OK. So in the Republican Basin, you're talking about the area of the United States that's the most heavily regulated irrigation community that there is--

GRAGERT: OK.

JASPER FANNING: --bar none. And ever since the lawsuit with Kansas, you know, we've-- we've had-- we've had a flow meter on every irrigation well in our district going back to 1978, OK? When Nebraska first passed the Ground Water Management and Protection Act, everybody started putting them on in 1978. To be honest, my grandfather was the first one that got a cease-and-desist order that said over his dead body. He didn't fight quite that hard, but-- but even the people that didn't want to have a meter, they got one installed or else they weren't going to be irrigating. And so the other districts, you know, they didn't have this-- quite the same issues that we had, the reasons that we put those meters and allocations in place at that time. But because of the compact, they do. And so once-- once that settlement agreement discussion's entered into and Nebraska decided that, you know, the ground water modeling effort, they're going to need to know precisely how much each well pumps, the state basically insisted and the other NRDs agreed. And they then required meters to go on all their wells clear back in-- in the early 2000s when that started. And they-- and they already had a number of wells that were-- that were metered. That wasn't the first metering that happened in those districts, but in today's world, you know, since the early 2000s, every irrigation well's metered. And farmers know how much they pump, and they're under an allocation that's pretty darn tight. You know, in our district, you can't give corn all of the water that it wants every year and live within your allocation. You have to make crop rotation

decisions or-- or give it a little bit less than what maximum yield would require to get by with our allocations. It's not an easy task to farm under those allocations, but it makes people better farmers.

GRAGERT: Thank you.

HALLORAN: Quick question, if I may.

HUGHES: Senator Halloran.

HALLORAN: Thank you, Chairman Hughes. So are there wells-- there are, I'm sure, well spacing requirements in the Twin Platte and the Middle Republican?

JASPER FANNING: Well, there's well spacing requirements in state statute that are the bare minimums. And so there's-- there's well spacing requirements throughout the state.

HALLORAN: So.

JASPER FANNING: I can't speak to-- as to whether or not they utilize the state minimum spacing requirements. For instance, our district's well spacing requirements are much more stringent than the state's requirements.

HALLORAN: But what are they-- what are they?

JASPER FANNING: It depends on which type of well, and I don't have the table in front of me we're talking about. But the state-- I think the

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state requirement is 600 feet from an-- from another irrigation well. Ours-- ours used to be a mile. We've-- since we have-- since we now have a moratorium in place, we've reduced that to 1,000 feet.

HALLORAN: A thousand feet, not a thousand miles? OK. So, no, the reason I ask that question is-- is in another question. Quick question is so what percentage of the time do the wells run on the N-CORPE system discounting this year. Five-year average, what would be the percentage of time that the wells are running?

JASPER FANNING: I haven't calculated that over a-- over a five-year period. And it would vary from year to year--

HALLORAN: Sure.

JASPER FANNING: --in how many wells-- how many wells were running. I mean there might be times that we would be running all 30 wells continuously for a period of time to pump a volume depending on what that volume is. Again, early-- early on, when we did not have the current agreement with Kansas, we didn't get started until, you know, roughly, I want to say, June pumping water. So we ran them continuously for six months to satisfy that year and kept them running for the next year until we had satisfied that year's volume. So you know, they ran rough-- almost a year initially to satisfy those first two-year's requirements.

HALLORAN: The well spacing question was-- was leading to my question then of can you drill more wells and still comply with the well spacing limitation-- limitations or restrictions on the N-CORPE property.

JASPER FANNING: On the N-CORPE property, yeah. Well, there's-- you know, there's still existing irrigation wells, albeit they don't have pumps in them right now, that are on our property that could be utilized for augmentation, or new wells could be drilled near where those existing wells are at. But we-- we could-- and-- and well spacing requirements protect neighbors and you from your neighbor, but they don't protect you from yourself. But-- but those well spacing requirements that we're talking about, you know, those are for irrigation. For our purposes, you know, just you know, it doesn't matter what the rule is. We have to take the aquifer properties to dictate what our well spacing. So having wells a half mile apart maybe isn't, you know, optimal in-- in real dry times. We-- you know, we need to expand that out past-- past a half mile to-- to minimize our drawdown.

HALLORAN: OK. Thank you.

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

JASPER FANNING: Thank you.

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HUGHES: I appreciate the fact that everybody's here. And I know there are a lot of people who want to talk, and we will stay and listen. But we do have another LR, so let's keep it compact, please. Welcome.

CHARITY FARLEY: Good morning. Thank you for your time. I am Charity Farley, I work for the Lincoln County Assessor's office, C-h-a-r-i-t-y F-a-r-l-e-y. Just real quick, a handout that was given to you earlier for Mr. Mossman, his opinion letter, I wanted to point out a document that is included in that. It's exhibit A. It's like four pages from the very back. I'm just going to read this paragraph to you. What it is is that a warranty deed from N-CORPE to Lowe Investments where they sold off 313 acres, and they reserved the water rights within this deed. It states, grantor reserves to itself and its successors or assigns all rights to the use of ground water appurtenant to the property. It is expressed-- expressly agreed that grantor shall have the sole and exclusive right to the use of such ground water, and may convey, sell, or assign the right to the use of such ground water at its sole discretion. Furthermore, grantor reserves the right to the-- right to-- excuse me, right of ingress and egress over, across, upon, and below the property for the purpose of obtaining, monitoring, or storing ground water. Said rights are hereby reserved unto grantor, its heirs, successors and assigns, forever, or until released by the grantor. This sale did not include any trading of property. It does not include any purchase of any new properties. So obviously they have

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already reserved the water rights when they state that there is no actual water rights. Like mineral rights, yes, you have mineral rights. Water isn't really a mineral so to speak. It is more of a privilege that is given to the individuals who own land so.

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

CHARITY FARLEY: Thank you.

GROENE: I'm testifying as a citizen and I wanted to correct some of the statements made because it influences the questions being asked by the committee.

HUGHES: Welcome, Senator Groene.

GROENE: Thank you, Dan. You want me to do this as a citizen of Lincoln County?

HUGHES: We need a spell.

GROENE: That wasn't a requirement to run for office, Mike Groene, M-i-k-e G-r-o-e-n-e.

HUGHES: Thank you.

GROENE: First, to correct Senator Hughes's opening, in 2015 the first bill came on the N-CORPE and original language did say they "shall" sell the land. All amendments to that bill in the committee, every legislation, introduced by a certain senator from Lincoln County,

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since then has says "may." It's always been "may." The given-- it's given local-- local authority, local option to do what the elected board wants to do. Second, to Senator Gragert's comment on the statement by Senator-- Attorney Mossman, on page 6. Previous to that, he's given a dissertation that I've been given the opinion by the AG's Office, too, that if you mishmashed all the-- all the common law, all the loss-- case law, all the statutes together they could sell the land now. His comment that says, further, I do not anticipate an increase to any risk, was a statement to that because we don't know. That's when they talk about lawsuits. Attorneys on both sides say they can probably sell it right now because the Estermann case did define augmentation as a public use. It did. So and then Mr. Mossman goes on to say, if we pass and clarify the law with legislation, then it would actually strengthen rather than risk. So there's two statements here. He's talking about prior, as it is now, he couldn't guarantee there'd be a lawsuit. After legislation like LB606 would be passed, on page 7, he says it really strengthened the NRD's case and the state's case because we now defined augmentation as a public use. Supreme Court statements, every single common-law statement, every single basic water law has basically been fought over common law because it's so fuzzy. Once the state had put statutes in that clarified it, court cases are pretty much gone away. We are under common law right now. It-- for example, every single court case has a statement like this in it, from Judge Cassel and the Upper Republican, perhaps another

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provision of current law-- very last paragraph in the whole state-- in the whole case. Perhaps another provision of the law, not invoked by the parties before us, is available to address this problem, but only the Legislature is empowered to determine whether current law is adequate or whether the law should be changed to balance the competing public interests differently. And as you're hearing today, there's a lot of competing public interest here that the Legislature should. We're hearing from county assessors. We're hearing from county commissioners. We're hearing from landowners. We need to fix it-- or you need to fix it. Also he-- on another case was the Estermann case. However we-- this is the court. However, we have made it clear that the Legislature may provide exceptions to common-law rule. Common law is very weak-- very weak. Since the Nebraska common law of ground water permitted us use of the water only on the overlying land, legislation action was necessary to allow transfer off the overlying land, even for the pressing a need as supplying urban water users. What we're doing now was an issue back in the '70s on municipalities and how much water they pumped. The Legislature acted, and they created the Municipal and Rural Water-- Domestic Water law. That is what we're asking to do here. Clarify this. Part of the lawsuit-- Mr. Fanning said I said it on the radio today. I did. I'm a citizen of Lincoln County. If they over pump and they affect our natural resource levels to where it burdens my farmers that they then have to pump less to fit into their local IMP because the Twin Platte and-- and this--

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and the Middle Republic is responsible for that water, and N-CORPE. They're responsible. It's the total amount of water used, and they have to be accountable for it. State don't care it went down the creek. They know it was used. So if it comes to the point that they pump more under the common law, somebody needs-- well, in Lincoln County, we'll sue. Those farmers will sue if it would start affecting how much they get to pump, immediately. You are open to lawsuit under the common law because they are restricted to how much pumped by beneficial use on the overlying land. We need to clarify it and create a public use clarified in law that augmentation is a public use. Prior to 2009, the augmentation project could not have happened. Under common law it could not have happened. The Legislature acted and added the term augmentation to the statutes, giving them the power for augmentation. They don't want statutes? Without that one, the augmentation project wouldn't-- if the Legislature wouldn't have acted, it wouldn't exist. Also Senator Bostelman reservations-- on water, and Senator Halloran. They could, in every one of these land sales in which they did on the one already, they could do a mineral type reservation where they said, we have the right, the reservation, and the deed. And we might want to come in and put a well on your property. They can do it. They could do it with eminent domain actually which they did in the Upper [SIC] Niobrara case which caused the Sorensen Supreme Court case. But they could put that-- they could move their wells where they wanted to, could be in the deed. Also on

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eminent domain, they did it in the Estermann case. They have eminent domain power to run-- to change pipelines, so that's not a problem. As to the state of Kansas, we have a document from this Department of Ag, a letter that says on one of the stat-- bill-- what we're trying to do, it says they don't care. They don't want to get involved in Nebraska's water law. They don't want to get in Nebraska-- on our water rights as long as the augmentation exists. If-- no-- they don't even care if the augmentation exists, as long as the cap-- compact is with-- is-- is complied with. The statutes we've been talking about guarantees that the augmentation project will be in statute, guaranteed. It also guarantees that it's a public use. If a city expands from 10,000 to 20,000 people, because of the municipal water law, they can pump twice as much immediately because they are a public use. The public use has now defined the beneficial use as domestic water. If we define this in law, the public use now has become the augmentation, and they can pump what they want within the boundaries of existing statutes where the local two NRDs still have local control. They have that now. One, in the Constitution it says domestic and agricultural go first. You cannot harm your neighbor. All the court cases, the Olson case, all of them have said that. They're in danger now. If you pump enough that your neighbor's domestic well goes lower, even a city well, if it goes lower or loses it, you've got to shutdown. That will never disappear. And how many acres you own, it makes no difference. If you pump enough to harm your neighbor, you

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shutdown. You-- we can't pass a law to change that, and buying more land won't change that. The minute you do that, you shutdown. Thank you.

HUGHES: Professional courtesy, you can go a little bit longer

[INAUDIBLE].

GROENE: Well, it's-- I'm just trying to clarify that. The boogeyman scares. I'm trying to protect the augmentation projects. So are my farmers. They appreciate that augmentation project. We need to protect it in statute. We need to stop this dance that somehow we are going to take a public purpose and-- and-- and enforce it under common law that's a for private-- that the private individual, the private farmer is-- is held to. Let's make it a public purpose. What stops this? As fiscal conservatives, we-- we-- we eliminate the cost of this thing. We give local control back to the local NRDs. It's the right thing to do. And do we need to find better ways with a? Yes, we do. But they are working on that, and eventually we all hope the augmentation project goes away because that is our natural resource. And we in Lincoln County are willing to bail everybody else out. We got broad shoulders. We are willing to lose our tax-- we lost a big chunk of tax base by the way. So did Dundy County. That was irrigated land. They've both lost over \$1 million a year property-- property taxes because it went, even in-- in lieu of, because it went-- we lost the economic inputs. We're willing to do that. I would just like to have one of

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those testifiers come up here from Dundy or Chase County and say, thank you, Lincoln County, for your sacrifices. We'd like to hear it once.

HUGHES: Do we have any questions? Seeing none, thank you, Senator Groene.

GROENE: Thank you.

HUGHES: Welcome.

DAN ESTERMANN: Thank you. My name is Dan Estermann, D-a-n E-s-t-e-r-m-a-n-n. I'm a board member of the Middle Republican NRD, but I'm only representing myself today. I think Mr. Robinson, as a neighbor of the project, made many of my points that I make in this handout that I'm giving you, probably better than I could have made them myself. When I run for election here just almost a year ago, I had four main points that I made as part of that. The first and foremost was to protect irrigation. And I think Senator Groene's bill assures that the augmentation project will be protected. The second was to sell N-CORPE land by parcel. Neighbors of the project are in the best situation to see management issues. And I would hazard a guess there are quite a few NRD board members across the four districts that have never visited the N-CORPE property. I look for ways to lower the occupation tax. And I think it's kind of important here in a recent accountant's compilation, this wasn't an audit,

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N-CORPE's financials reported a \$473,000 bank overdraft. I've asked about that, and I don't know why I haven't got a suitable answer for that. And I think taxpayers deserve that. The occupation tax has Main Street implications. How many farmers in the four NRDs will have to borrow occupation tax as part of their operating loans this year? And what rate of interest will they pay? It may not be the burden on established farmers like Senator Hughes, but what about the beginning farmers? The last point that I made in my election was that I thought all future bond issues should go to the voters of the district, and I think this should hold true for alternative energy projects. I think a host county to such a controversial project should be entitled to a vote by its residents. Years ago, a Forbes 500 millionaire said that anytime there is controversy, there is money to be made. It's understandable after watching the N-CORPE project. I am Estermann in Estermann v. Bose, and there were affected parties that were forced into lawsuits surrounding N-CORPE. And they certainly helped to raise the cost of the project. N-CORPE paid a 5 percent on their original bond when most farmers were paying a little over 3 percent. Two percent on \$100 million cost the taxpayers \$2 million a year. To proceed on a controversial project when a vote would settle it is a disservice to taxpayers. It isn't right that board members from other counties have more to say about development in Lincoln County than Lincoln County residents. These four points that I run on gathered--garnered 70 percent of the votes from Lincoln County. I'd like to

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thank Senator Groene. He has steadfastly represented Lincoln County against staggering odds. He has been grumpy and temperamental at times, but we in Lincoln County have elected him twice to serve as our representative because most of us believe he has fought hard for the taxpayer in a fight to get more bang for the buck. We believe he is a man of upright character, that he is not in it for his personal gain, and we believe that he is not satisfied with government that is working. He wants to make it better. Thank you to the Natural Resource Committee, for your time and consideration.

HUGHES: Thank you, Mr. Estermann. Are there any questions? Seeing none, thank you for your time.

DAN ESTERMANN: Thank you.

HUGHES: How many more testifiers do we have on LR114? OK, good, we're getting close. Welcome.

TODD SIEL: Thank you. Good morning, Senators. I will be very brief. A lot of what I had to say has already been covered. My name is Todd Siel, T-o-d-d S-i-e-l. I am the general manager of the Lower Republican NRD based in Alma, Nebraska, and here to testify today regarding LR114. To start off with, I want to point out the last testifier, Mr. Estermann, talking about a \$473,000 bank overdraft. I think that was an unfortunate term that was used at the end of our fiscal year. It actually was our accounting done on a modified cash

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basis. It was accounts payable versus accounts receivable at that point in time, on June 30. We were not overdrawn at any bank for \$473,000, probably an unfortunate use of-- of that word. The Lower Republican, as you've already heard, we're one of the four NRDs that are a part of this interlocal entity. And this-- the board of directors of N-CORPE and the Lower Republican NRD is made up of farmers, producers, agribusinessmen. And they understand and fully appreciate the value of private land ownership. And-- and we do understand private property rights. But these directors are also very aware of the inherent and-- risk involved that would result if-- by separating ground water access from surface property ownership. In the Lower Republican NRD, our board has been unanimous in that issue and believe that any new legislation would present risks for N-CORPE and the Lower Republican NRD that just do not currently exist. And also the debate in regards to common-law principles versus if it were put into Nebraska statute, fully understand that and the-- the possibility of how that may, to some, provide comfort. For the case of the Lower Republican NRD, we believe it to be unnecessary. Even if legislation were to be considered and passed, we would not be in support of selling the N-CORPE property in order to protect our augmentation project. I would point out I know earlier it was referenced about the Supreme Court ruling in 2018, and I'll point out just two things about that. That yes, I agree with Senator Groene, it does state what he stated at the end of that ruling. It also stated two things earlier,

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and I quote from that ruling. We find no reason to treat underground uses, in this case, the use of the aquifers, wells, pipeline system differently from any other use of the property. As the NRD points out, use of the ground water is a derivative right immediately dependent on ownership of the surface over it. Secondly, it also said the right to use ground water does not float in a vacuum of abstraction but exists only in reference to end results from over-- ownership of the overlying land. Just to skip, I'll just state once again, we believe, in the Lower Republican, the passage of any kind of legislation is just going to invite and probably enhance the threat of litigation. So thank you for your time and appreciate your efforts in this matter. Be happy to answer your-- answer any questions.

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

HALLORAN: Thank you, Chairman Hughes. So how is it municipalities and rural water systems can get away with pumping almost unlimited amount of water without owning X amount of acres?

TODD SIEL: My understanding of this is that the case that has been referenced, also the Sorensen case back in I believe it was 1985, it discusses how that ruling distinguishes between water use is allowed pursuant to that act. And I do have a quote from the Sorensen case. Concerning landowners without a permit under the act, the common law

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still governs the use of ground water inasmuch as such use is a limited private property right in Nebraska. You know, N-CORPE-- it was ruled-- a Supreme Court ruling in 2017 also referenced earlier, it upheld a district court decision that N-CORPE did not need a permit stipulating that N-CORPE is not, you know, a municipality.

HALLORAN: It is not a public use, but that's what we're looking at--

TODD SIEL: Right, and that--

HALLORAN: --doing is converting this to a public use, right?

TODD SIEL: Correct. And as far as how that--

HALLORAN: So I guess my point is or my question is why is it-- I'm going to repeat my question. I don't think I got my answer, or satisfactory answer for me at least. Why is it municipalities or rural water districts can pump without overlying land to justify those acres?

TODD SIEL: I do not have the exact answer to that, but I do know it's written in state statute that specifically talks about that with municipalities.

HALLORAN: And isn't that what we're trying to do here is to allow for this to adopt and accommodate the same rules municipalities would have by calling it a public use or labeling it as public use?

TODD SIEL: I would assume that's what's trying to be accomplished--

HALLORAN: OK. But--

TODD SIEL: but what it is actually is used for is different than what municipalities would use that water for being an augmentation

[INAUDIBLE].

HALLORAN: Isn't it-- isn't it a public use? Aren't we requiring Lincoln County?

TODD SIEL: It would be for compliance with the Republican River Compact which as far as what that definition of public use is, I'm not going to profess to know--

HALLORAN: But isn't--

TODD SIEL: -- that exact definition.

HALLORAN: But-- but isn't that a requirement put-- placed upon the state of Nebraska to accommodate that augmentation, that compact?

TODD SIEL: Yes.

HALLORAN: And that, in Nebraska, represents the public?

TODD SIEL: I would assume so.

HALLORAN: That's a yes or no.

TODD SIEL: That's a yes.

HALLORAN: Thank you, sir.

HUGHES: Any additional questions? Thank you, Mr. Siel. Next testifier?
Welcome.

KENT WEEMS: Thank you. Kent Weems, K-e-n-t W-e-e-m-s, I'm a Lincoln County resident. Also serve as a commissioner there. But I'm not here in that capacity, just as a citizen and landowner. Our county assessor has done a great job of sharing our tax loss as it pertains to dropping those acres from irrigated to dryland and so forth, and Senator Groene pointed out the sacrifices therein. And I would concur that, you know, the overall mitigation project-- argument-- augmentation project is essential. However, I can't see any risk to returning those properties back to private land ownership where taxes are compelled, not just perhaps may pay-- be paid in lieu of. And on that vein, it occurs to me that the NRDs ultimately have bettered the challenge so to speak, in any court, in any-- any ruling they have passed down. So where is the risk, I guess, of-- to the NRD? If they don't like the fact that they can't pump water in this sector, they can simply change the rule because ultimately they have been designated as the water authority in Nebraska. I don't see the risk there. That's all I have.

HUGHES: OK. Thank you, Mr. Weems. Are there any questions?

KENT WEEMS: Thank you.

HUGHES: Thank you for testifying. Welcome.

JERRY WOODRUFF: Thank you. My name is Jerry Woodruff, DVM, J-e-r-r-y W-o-o-d-r-u-f-f. I am also a commissioner in Lincoln County, District 5 as a matter of fact. But I am here as a private citizen, a taxpayer, and-- and resident of Lincoln County. First off, I want-- I appreciate the work by all parties involved in completing the ground water to river augmentation product-- project. Very essential and I appreciate those efforts. But mission accomplished, it's time that that land-- in my opinion, the surface land should be returned to Lincoln County tax rolls and for the benefit of the citizens of Lincoln County. I thank you, Senator Hughes-- Chairman, for bringing your committee out to this part of the state. Thank you.

HUGHES: Thank you, Mr. Woodruff. Any questions? Seeing none, thank you for coming today. Anyone else? Last chance. Nobody else? OK, thank you everyone for attending the LR114. We will take a short break to get-- because there's a lot of people out in the hall that want to come talk about the next LR. So let's get about five minutes, and we'll take up the next one.

BREAK

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HUGHES: I'm going to repeat myself just a little bit. This is the Natural Resources Committee from the Nebraska Legislature. I am Senator Dan Hughes, District 44. The legislative resolution we're taking up now is LR142, an interim study to examine any matter concerning Game and Parks. I'm just briefly going to go through this. If you want to testify, grab a green sheet, fill it out, give it to the clerk when you want to testify. Make sure that you fill it out completely. When you come up to testify, we need you to spell your first and last name so we have an accurate record. If you want to be recorded as being here, there's a white sheet on the table that you can hand in and we will record your presence, even though you choose not to speak. There are no signs of support or opposition to what we are hearing today. This is a little different than a legislative hearing. We will not be doing opponents and proponents. You can come up and testify as you feel fit or you feel necessary to do that. I will make brief introductions of the committee. We will be using our light system. You will be limited to three minutes in your testimony. When you begin talking, the green light will come on. When the yellow light comes on, you have one minute remaining. When the red light comes on, I would like you to wrap it up. If, you know, and I will interrupt you because I assume there are going to be quite a few people who want to testify. With that, I will introduce the committee members. We have Senator Gragert on my far right; he is from

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Creighton, Nebraska. Senator Quick is from Grand Island. And Senator Halloran is from Hastings. I do have my-- the Natural Resources Committee clerk with me, Laurie Lage. Or I'm sorry, committee counsel, excuse me, Laurie Lage; and the committee clerk, Mandy Mizerski, who is recording the proceedings and running the lights for us. LR142. Thank you for the committee to traveling to the western part of the state and all of you for attendance for the discussion of a variety of important matters involving Nebraska Game and Parks Commission. The language in LR142 is broad and that was intentional. There are a number of issues that I believe warrant some discussion, issues that others have brought to me and other senators. Some of these issues affect western Nebraska in particular, which is why I scheduled two public hearings for this resolution in this part of the state. Yesterday we had a hearing in Scottsbluff on LR142 as well. By and large, the issues related to the land management, the commissions-- and the commission's responsiveness to Nebraska citizens. I've talked with many Nebraskans who have expressed concern about the challenges the Game and Parks Commission has with handling all of their responsibilities. The commission is responsible for the regulation and management of hunting and fishing in the state, and for the regulation and management of all state park facilities. Their responsibilities are enormous, and I think they should welcome the opportunity to hear concerns expressed and to take a look at how things are done and whether there is room for improvement. This is my goal with this

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hearing: To give citizens and the commission the opportunity to express their concerns and to ask and answer questions. There are few issues-- a few issues I would like to weigh on-- weigh in on before I turn it over to you folks. One is whether the commission's board of commissioners is representative of the state as a whole. I have often heard from constituents that the commission seems to be more focused on the eastern part of the state with regard to facilities and wildlife management. Perhaps we need to evaluate the makeup of the commission and the qualifications of its members to ensure a more balanced representation. Two is the management of the parks area, in particular Lake McConaughy. The popularity of the lake has grown and the local economy has benefited from the influx of visitors. Lake McConaughy is the second largest tourist attraction in the state of Nebraska. However, the number of incidents involving alcohol, drugs, and violence has grown as well. The problem of crowd management at Lake McConaughy has led to dangerous situations for local law enforcement and first responders whose lives can be put in danger when responding to like McConaughy calls. We know the lake makes money for the commission. We need to talk about whether the necessary amount is spent on regulations and law enforcement to ensure everyone's safety. Number three, also relating to the management of park areas is whether more attention needs to be making to improvements focused in the western part of the state. I hear of overgrown weeds. I see-- have seen overgrown weeds and bathroom conditions on roads not being

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maintained at facilities in western Nebraska. At the same time, we hear about new high-profile projects for recreation in eastern Nebraska. We should discuss how these decisions are made, the justification for choosing to improve one park over another, and whether the state should spend money on projects that compete with private industry. Four, the management of wildlife that causes damage to agricultural crops. This is a topic I've been trying to address for a few years and one that is frustrating me. Earlier this year, the Wauneta Breeze, there was an article about the management of deer that ruins crops. In that article, the Game and Parks representative told ag producers that one of the ways you can alleviate the damage is by planting deer-resistant corn. That type of advice is not legitimate and is not helpful. This is a serious problem for which I intend to find a solution. I've been working with the Sportsmen's Foundation and Scott Smathers over the interim to come up with a possible remedy that would be acceptable-- acceptable to all. There are major issues I would like to discuss with Game and Parks. I will open up now to public to share with the committee their concerns or their lack of concern with those and any other topic under the jurisdiction of the Game and Parks Commission. I do want to note that the Game and Parks Commission personnel, the everyday workers are doing an excellent job. I have spent time talking to a lot of them. And if you're working for Game and Parks Commission there's no question that you are doing a good job. This not, is not coming after you at all. We are simply

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looking at the management and the challenges that go along with the Game and Parks Commission. And I do appreciate the fact that we have several Game and Parks commissioners here, they were there yesterday, that have come and listened to the concerns of the people and there are some very legitimate concerns out there. And especially on the livestock-- or the wildlife damage and the lack of compensation for the landowners. So with that, thank you all for coming and I will stay as long as it takes so everybody can be heard. My colleagues may have to get on the road. The first hearing took a little bit longer than we anticipated, but I will certainly stay as long as-- as somebody wants to come up to testify. So with that, don't be afraid. Hop up in the chair. We don't bite. We're relatively harmless. Yes, you have three minutes. Welcome.

ANTON SPILINEK: Thank you, Senator Hughes. How are you?

HUGHES: I'm excellent.

ANTON SPILINEK: Good. Hi, my name is Anton Spilinek, A-n-t-o-n S-p-i-l-i-n-e-k. I've been almost a lifelong resident here of McCook. I just wanted to get up here quick, got to go take care of my mom. Thank you for the Game and Parks Commission, all you guys that are out there keeping us safe, you know. My wife and I actually went out to Red Willow the other day and we had supper out there. We were the only people on the lake, it was the greatest thing in the world, you know?

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You can't beat that. You mentioned Lake McConaughy. I've said this for two years to the people at the State Fair that are there. My wife and I went up there two years ago and I was afraid for my life, actually for my life. When we pulled into a campsite and there was a group of people, and they were not white. I'm not a racist or anything like that, but we pulled into there and I didn't think we were going to get out of there. And it scared the hell out of me. And we finally found a campsite. I used to go up there back in the '80s. You know, with the "Big Mac" races and everything. And, I mean, it literally scared me. And they said, I went and talked to them this year at the State Fair, they said they only had three people out there watching-- taking care of these people-- these Game and Parks Commission for, for this lake. And I'm like, three? And I am like, you've got to be crazy. This is, this is-- you know, back in the 80s it was crazy then. And I, I, the incidences that have happened. You know, it's crazy now. You know, I just, I think that lake is-- there's a lot of things they can do to make it a lot safer for people like me that want to take my family up there. The Kites and Castles contest, we love going up. My kids got third place up there in years ago. You know, I just-- you go to Red Willow, you can handle it. It's, it's beautiful. Except I took my, my son wanted me to go out and get a campsite on Father's Day weekend. My, my brother-- my son-in-law actually works for the Pheasants Forever up in Billings, Wyoming. But cost me \$150, you know, to take my buddy's camper out there to camp, you know? I tent camp. I camped

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up in Yellowstone, you know, three weeks ago. It was 31 degrees, I forgot our sleeping bags. Hey, you know, but, but the rates are, the rates are pretty high, you know? You know, they, they have cut the access off to the all-- a lot of roads out there. You know, me and my wife used to drive around to go fish in a cove, can't even do that anymore. I have a boat. I bought a \$700 boat. My grandkids love it. But you know, when you want to bank fish, there's not-- there's not a lot out there. Also with the deer, it's hard to hunt out here. It's really hard. You know, my son, he moved to Texas and now he's back in Nebraska. Last year we didn't get a mule deer permit. Two years, before that we didn't get-- that was the first time we never got a mule deer permit. And I-- and I'm like, why? I live here. I live in southwest Nebraska. Why does somebody from out of state, they can give 167 permits. I understand it's the money and the income coming into the community and everything else, but I feel like I should have a right as a citizen here to get a permit, you know? Not just a white-tail permit, mule deer permit. Trying to find land out here is-- it's really hard to hunt on too. I know my three minutes is probably up, but you know, my wife and I were getting off the lake, we were the only ones on it. Here comes a boat, I waited for them to come out. It was the Game-- and Game and Fish. They were zapping the fish. I go, what are you, what are you, what are you doing? Oh, we're going to zap the fish, you know. I understand, you know, checking the weights. And I said, what kind of fish did you put in? They put in wipers. I don't

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like wipers, you know? I don't, I don't mind saugeye, but they, they said saugeye and wipers. And I'm like, you know, we used-- when I was a kid, we would catch stringers of 300 fish, crappie, you know, when we were kids with my mom and dad and everybody. Nowadays, it's hard-- it's hard to catch a fish. You go down to like Branched Oak down there. I don't know, but I don't know what they got in the water down there, but they're 15 inches. Ours are tiny, you know? It's the management of these big fish and everything else but.

HUGHES: OK, thank you very much. Wait, wait. Any questions? Very good. Thank you for coming.

ANTON SPILINEK: Thank you, guys. Appreciate it.

HUGHES: Welcome. Welcome.

HEATH BORTNER: Thank you. Heath Bortner, H-e-a-t-h B-o-r-t-n-e-r. I appreciate you guys letting me come up and talk for a second. I live right next to Hugh Butler Lake up there, have been there for 24 years. I grew up on the other side, so I've been there, we boarded it my, my entire life. And I don't have an issue with the Game and Parks. I know they're trying, but I don't know if it's the funding or manpower or what, but there used to be maintenance done out there. Those roads used to be mowed, the campsites were mowed. It's like Tony said, you could drive them. You cannot drive them now. There are no-- there's no upkeep to the fence. I've got miles of fence along there. They're

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supposed to have half of that. They don't do anything. There is no signage on the fence unless I put it up. They used to do that stuff, they used to mow. They used to, they used to be a good neighbor. And I just feel like over the last years, the last decade for sure, there's just no use on the west side. And I've tried to talk to in the years past. I didn't talk to them too much this year, just because in years past it's just you talk to a guy that give you another guy that gives you another guy. And after five or six guys you kind of stop trying. We've had all kinds of hunter problems. One of my biggest complaints is the hunters will come out, everybody wants to hunt, that's great, but the-- if we get six inches of rain, everybody comes out, tears up the roads to the point they're impassible. The Game and Parks ought to know that, see that, they're making money off of that. They should come in and fix those roads. And as far as the deer damage, I've worked with them in the years past. I didn't this year because the last time it took weeks to get air cannons out there, then it took another three, four weeks to see that the air cannons didn't work. And then, of course, you had to talk to another guy to even get some tags, and by that point the damage was done. I, I don't know what all the answers are for sure, but I would just like to see a little more maintenance just in general, be it roads, be it fences, whatever I can do. I think-- if anybody's got some questions, I'd love to hear them, but I guess that's about my main statement.

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HUGHES: Thank you, Mr. Bortner. Are there questions? I guess I've got some questions. So you're at the west end of the--

HEATH BORTNER: West end of Hugh Butler.

HUGHES: Hugh Butler Lake here. And there is a campground at that end that is not being maintained at all?

HEATH BORTNER: There is a campground below my house that's Bortner Grove. Used to be, I mean, there's facilities there. I mean, it's just an outhouse. But they used to come out mow all that and then you'll have hunters in and out of there. Well now the weeds are 12 feet high, and that's not an exaggeration. I can go out there and we can measure them, they're 12 feet high. And so you get in cars nowadays that aren't-- they're not hunters, I don't know what they're doing down there, but they're not out there to hunt. And then when the hunters do come in, they put as much care into it as the Game and Parks do. There's 12 feet high weeds, so we've got throw some cans around. Fine. Are we going to pick up trash? Probably not. You know, they don't care because it's pretty obvious nobody else does. And there is no law enforcement presence there. I've been there, like I said, 24 years. I know the game warden tries, but I know there's not a lot of those guys out, but even-- I would think they could have the sheriff patrol it once in a while or come to some sort of agreement with the State Patrol or-- there's got to be a way to patrol that, because it's just

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getting worse. There-- it's obvious you could drive into Bortner Grove right now and you can drive behind some of that marijuana and you could do whatever you want to do. There will be gunshots down there at 3:00 in the morning. And I've talked to people about it and you just can't get anybody. I know it's in the middle of nowhere and I know it's a low population area, but it's-- it's a problem that's growing.

HUGHES: So this area has been maintained in the past, apparently--

HEATH BORTNER: It used to be.

HUGHES: --there are facilities there, but no longer.

HEATH BORTNER: Yep.

HUGHES: So they haven't maintained it for the last two years?

HEATH BORTNER: I'd say a decade.

HUGHES: Ten years? OK.

HEATH BORTNER: I can't tell you the last time I saw somebody mow Bortner Grove.

HUGHES: OK.

HEATH BORTNER: And I'd be happy-- anybody from Game and Parks that wants to talk about it or wants to go out and look at, I'd be happy to show them. But that hasn't been maintained in forever.

HUGHES: OK. Any other questions? Thank you, Mr. Bortner, we appreciate it.

HEATH BORTNER: Thank you.

HUGHES: Welcome.

SCOTT SMATHERS: Senator Hughes, fellow committee members, senators, my name is Scott Smathers, S-c-o-t-t S-m-a-t-h-e-r-s. I am the executive director of Nebraska Sportsmen's Foundation. Nebraska Sportsmen's Foundation is a nonprofit organization that's statewide in the state of Nebraska representing 13,000 members and various affiliate members and partners and conservation groups. As Senator Hughes stated, we have been active since the last hearing with Laurie Lage and Senator Hughes's office and the Game and Parks and our own particular groups on trying to find plausible, compromisable conversations and/or possible directions in regards to the area of (2) of this LR-- wildlife management and depredational issues. It is clear, obviously, and after previous hearings yesterday, there's a wide range of opinions and subjects and issues that we need to address. There are options that are out there. I'm hoping that between the three entities we're able to compromise and find common ground solution. Whatever that may be, we have a long way to go, I know one thing that's for a fact in talking with our sportsmen's groups and looking at some of the numbers, currently the current programs that are available for

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depredation issues may not be being used enough, may not be known well enough by sportsmen and ag producers. And keep in mind, our organization is 62 percent landowners out of the 13,000. And I still get questions from our own members that question or ask questions of what's available to them through the Game and Parks. Yesterday, the USDA came up in regards to some sharpshooting issues that occur. We have to do a lot better job on all parts. And I think Game and Parks has expressed that in several different occasions. They're aware of some situations. It reminds me a lot of the water funding task force when we started with 37 water users in a room and six months later we were actually together. And I thought that was an impossible task, quite frankly, when we sat down. So this isn't impossible. Feathers will get ruffled, tempers may flare a little bit. We may not hear things we'd like to hear or things are told that we don't like to be told, but we have to find a solution, folks, and we've got to work together. So I appreciate your office, Senator Hughes, this committee. I'm hoping that we come to some common ground before legislation is put on the floor that will force negative reactions. I'm hoping we find some common ground. With that said, I do want to see a better use in all districts, not this district only in regards to using the current depredational programs that are available. And I also want to-- we're going to push our sportsmen and our landowners to start to take advantage of the number of antlerless permits that available within each region through a variety of different ways. When you start

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looking at statewide, in particular, the Frenchman and Republican, and less than 40 percent of the doe tags are filled, it's one way to start solving a problem. And you don't have to let strangers on your land if you're a landowner, there's ways to handle this. At least put a dent or a direction in it. So I'm hoping we continue to have these conversations. I apologize I won't be able to stay for the full hearing today. I appreciate you scheduling these hearings. I was scheduled for vacation to Chicago yesterday and today, so we rescheduled. So I am-- I'm going to try to please my real boss and make it home in time to make a flight tonight so. I will-- I will answer questions at this point. Thank you.

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

HALLORAN: Thank you, Chairman Hughes. Vacation in Chicago?

SCOTT SMATHERS: I am a lifelong Cubs fan and so is my son. My son is in the Army and we have not-- ever been able to-- we have not been able to fill a bucket list of going together. And he is finally able to do that this weekend.

HALLORAN: Well, good for you. I'd rather spend a week in McCook myself.

SCOTT SMATHERS: Well, you know, in all fairness, you know, my thought was this morning I'd rather be in my deer stand than here, but here we are.

HALLORAN: So in the previous hearing, we heard someone-- someone, maybe you did say something about it, someone mentioned that there is a permit where it's required to take a doe first before you can take a buck?

SCOTT SMATHERS: That's the "earn-a-buck" program that has been in place in the past. And Game and Parks, I know, is reviewing looking at doing that again. Requires you must shoot a, a doe before processing or shooting a buck. I will tell you this as a sportsman, what's interesting is you can put-- pit ag and sportsmen against each other, we all have our own differences within our own groups. Our own community did not like the "earn-a-buck," a good portion of them.

HALLORAN: Why?

SCOTT SMATHERS: Some hardcore hunters and true sportsmen felt it promoted dishonesty and issues and that you should be shooting does anyway with, on your own property for managing your deer. Our society of sportsmen have become commercialized TV, searching for racks. My personal property and the use inside the state between Pleasantdale and Milford, when EHD came I lost over 50 percent of my deer population, all bucks. That hurts, because we manage our land for that

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reason. We don't-- we're not ag producers, cow/calf, small operation.

So "earn-a-buck" is one tool. Doesn't mean it's going to fit everything in every region, every portion of state. and for every sportsman. That's OK. We have to utilize the tools that are available to us to manage the population as needed. Issues that are in this county, in these two districts, may not represent what's going on in northeast Nebraska or in southeast Nebraska or the river systems. So we have to look at all opportunities. But everything is going to have conversation, let's put it that way.

HALLORAN: So that-- that program comes and goes. It's not just a consistent annual program?

SCOTT SMATHERS: Correct. Again, the Game and Parks is managing wildlife. And I said it yesterday and I'll say it again, managing wildlife is similar to ag production. There's a lot of variables that affect the outcomes and some of you can and cannot control. CWD in this part of the country, EHD on the eastern side of the state. You know, when you lose and have those opportunities that come and go, if we-- if we up permits and harvest by 40 percent right now, that's a relationship that we could face three, four, or five years down the road is detrimental to the entire herd. And I want to remind everybody sportsmen spend over almost \$300 million in the state annually. We are

an economic impact in the state. And we are only self-regulated tax people.

HALLORAN: And farmers spend a lot of money in crops.

SCOTT SMATHERS: Oh absolutely. No ands, ifs, or buts, I won't argue that point. And we know that ag is the number one production in the state and we have to work together, we have to get along. Wildlife and ag have existed, will exist, and they need to exist together in order to support each other and depredation is part of that process.

HALLORAN: Thank you.

SCOTT SMATHERS: Thank you, Senator.

HUGHES: Any other questions? Thank you, Mr. Smathers.

SCOTT SMATHERS: Thank you, Senators, appreciate it.

HUGHES: You owe me one.

SCOTT SMATHERS: I got the scorecard.

HUGHES: Welcome.

PAT MOLINI: Hello. Thank you. My name is Pat Molini, P-a-t M-o-l-i-n-i. I am the assistant division administrator of the wildlife division. I am responsible for the depredation program in the state of Nebraska. I spent 12 years as district manager working one-on-one with

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landowners in the southeast with depredation issues, mainly white-tailed deer down there. I clearly understand the importance of agriculture in the state in Nebraska, it's a billion dollar industry. And I come from a farming background. I never-- I wasn't raised on a farm, but my folks were, my mom was, and had a lot of friends that worked on farms. So with that said, I can't overstate the importance to hear from landowners and their depredation issues. We take that, that information and we apply it to our season recommendations for the next, next year's permits. So that information is very important. And when it comes to depredation we, we need to hear from them. We've got to hear from them. And this year, as you know, we had some meetings in the southwest here and from that point on we took a hard look at our entire depredation program and we're trying to make it better. We've, we've done-- made a lot of changes to that program and we'll take any comments and a lot of it has come from landowners. A lot of what I learned in this profession is from landowners in the southeast that I met and worked with one-on-one down there. And damage control permits are a pretty important part of that. It removes the offending animals when the damage is occurring, and we have been offering them to anyone, basically, that wants them and for the number of species they want. We let them dictate the number. If we issue one for five and they fill it for five, they can have another-- they can keep going. If they want to issue-- want us to issue a permit for 50, we'll issue it for 50. That number is decided by them. So we've liberalized that part of our

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depredation. But some of the actions we've taken, we've retrained staff in customer service and we've brought a lot of staff from other divisions to help us on this. I mentioned the meetings. We-- we've increased our antlerless kill. This upcoming year in the Frenchman unit, with antlers permits, we're trying to increase antlerless kill with damage control permits. But we need to hear from the landowners. And we're, we're getting cooling trailers to utilize the meat in warmer months. We're trying to find outlets for that meat. We started a antlerless deer hunter program on our Web page where antlerless deer hunters can sign up and they identify themselves as someone that will antlerless deer only so. But the bottom line is we're trying to make this program better and many of these are permanent changes and will be around for a long time so. And as a public servant, I always want to do better. So I can take the criticism and we'll make it better and that's my objective. I do want to make one clarification on the GMO or corn varieties, I was at the Wauneta meeting and that article this did state that. But that was after two and a half hours of talking about solutions and different things for depredation. And a conversation came up about different varieties, and deer do tend to stay away from BT corn if they have a choice. And we did not recommend it, but we've had landowners say that they've noticed this. And it's anecdotal, but there is research going on. And I think with the scientists we have today, and maybe it will happen when I'm dead and gone, but maybe a corn plant-- plant-- corn plant could protect itself during the

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whorling stage. That's not out of the realm, but it's not something we recommend. It's something that's been discussed. And, again, there's research out there going. But, but we have a whole list of other things that we do. We've, we even sharpshoot deer. We've had employees go out to landowners and-- but we need to hear from them. Some of these landowners we haven't heard from, or-- and I know yesterday it was mentioned we haven't heard-- they tried 30 years ago and then they just got tired of calling us. But I've been doing this for two years, so, new sheriff in town. I will work with them. They can call Lincoln and ask for Pat Molini, and we'll--

HUGHES: Your light is on. So, questions? Thank you. Yes?

GRAGERT: Could you just, real quickly, the process, so-- and I'm wondering when an individual calls in and has a problem, how long does it take for that individual to get permits?

PAT MOLINI: A damage control permit? Well, as fast as I can send him an e-mail basically. We want to work with them because the solution includes reasonable hunting, hunting of antlerless deer. So we want to talk about that, we want to see what kind of damage they're having. Some of them don't want damage control permits. We've had landowners turn them down. They don't know about our season choice permits which, which are antlerless only. Not all landlords, but some. Sometimes it's an access issue. We talk about earn-a-buck on private property where

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the landowner requires the killing of an antlerless deer before they can kill a buck on their hunters. So, but I issued a pronghorn permit over the phone and I e-mailed it to a gentleman in Garden County that was at our meeting yesterday. But that's all it takes. The law requires written request. So he e-mailed me a written request and I issued him a permit via e-mail. And that's how quick-- we can show up with a permit at their door if they would like. We would like to see the damage so it helps us be better managers but--

GRAGERT: That was going to be my question. You don't have to go out and see the damage?

PAT MOLINI: We don't have to, no, but we like to. It makes us, again, better biologists. And from year to year that tells us a lot, again, how that damage is. And we're probably from now on going to survey all these depredation-- or these landowners that have problems with depredation to kind of gauge yet from year to year. So if you get a survey behind me, please fill it out as a landowner. We're going to, we're going to get a hold of you.

GRAGERT: You may not be the one to ask, but are there any hunters turned down? Permits, right now?

PAT MOLINI: On--

GRAGERT: White-tailed, mule as far as applications--

PAT MOLINI: You mean, if you're applying for a permit?

GRAGERT: Applications, are there any turned down?

PAT MOLINI: We're a pretty liberal state, and you can-- you can find a permit to hunt somewhere. We have river, antlerless, and whatever, so I'd say no. There are some units, obviously, a permit that allows you to shoot an antler deer, buck is hard to come by in some units. We have a few draw units, but there's other opportunities. So I'd say the truth of that is no. If you want to hunt deer, you can get a permit in Nebraska.

GRAGERT: Thank you.

HUGHES: OK. Any other questions? Senator Halloran.

HALLORAN: Thank you, Chairman Hughes. The sharpshooter thing intrigued me. So is that a free service? Say if I've got damage and I don't-- I'm not into, say, hypothetically I'm not into shooting deer, can I-- is there a service charge for that?

PAT MOLINI: Nope, it's free. And the damage control permit is free. But sharpshooting is free. It's our staff. It's-- we like to start with a damage control permit and then find hunters. I mean, honestly, you start with hunting seasons and that's where you do it and try to control antlerless deer. But if it's damage control permit, we try to get shooters. Obviously, we don't have enough staff to do it for

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everybody, but we try. I've spent nights on haystacks and in cornfields myself, you know, shooting deer.

HALLORAN: Is there some level of damage that-- how do you measure to justify?

PAT MOLINI: It's, I mean, low, moderate, severe. You know, we put dollar figures on it. The landowner, I've seen graphs like we had yesterday, you know, of harvest, you know, graphs and that. But I've dealt with landowners that have had, yeah, thousands and thousands of dollars worth of damage. A lot of times, it's something the Game and Parks does not control is access, and a lot of times the neighbor does not allow any hunting or limited hunting and it affects the neighbor next to him. And that's something we don't control. We control a number of permits, and often we have a-- we have enough permits out there to control the herd in most places, but we don't control access. We can't make people let, let you hunt. We can't sharpshooter on your property unless you invite us onto your property.

HALLORAN: Thank you.

HUGHES: Other questions? I've got just a couple.

PAT MOLINI: Sure.

HUGHES: So how long are the depredation permits valid for, once you issue them?

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PAT MOLINI: They're 90 days, but we'll issue-- that's what the law says, but we'll-- we can reissue one for another 90 days. So as long as it takes.

HUGHES: OK. That's fine. So what are the, what are the rules that I-- do you have to harvest some of the meat or what are those rules if you--

PAT MOLINI: Well, the statute says you have to offer for human consumption and, you know, we all were here to work for 1.8 million people. So there's a lot of people that have issue with we just took the deer and threw them in a hole, I mean. So we, we find outlets. The Game and Parks just took that responsibility on. We found people. There's people that work at packing plants and in other places, large bodies of workers that have said they'll take it. We have a group in the southeast that they, they'll take as many deer as we can give them and they make jerky out of it and they send it over to the troops in other countries.

HUGHES: So if I get a depredation permit then you will help me--

PAT MOLINI: We'll help you find an outlet.

HUGHES: Find an outlet for that.

PAT MOLINI: Yeah. Yeah. We get a list of names. We have a list on our Internet, on our Web page.

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HUGHES: OK, so are deer the only species that are regulated by the Game and Parks that have depredation permits to them?

PAT MOLINI: No, I probably didn't-- we'll, we'll issue damage control permit for white-tailed, mule deer, pronghorn antelope, elk, turkey, game birds. And we have permits for other stuff, beaver, yeah. So we'll, we can control most everything out there, lions even, mountain lions.

HUGHES: OK. Thank you. Any other questions? Thank you, Mr. Molini.

PAT MOLINI: Thank you.

HUGHES: We appreciate it. Welcome.

MATT BURESH: Thank you. Chairman Hughes and members of the Natural Resources Committee, good morning. My name is Matt Buresh, M-a-t-t B-u-r-e-s-h. I serve on the executive board as secretary for the Nebraska Bowhunters Association. Our organization has over 600 active memberships. We believe having the trained wildlife resource managers of the Game and Parks Commission to advise and consult the commission is our collective policymaking body is the appropriate way to manage all the wildlife resources. It is our belief that the Game and Parks is managing our wildlife, including our deer herds, for the collective good of all Nebraskans. As of today, there are many ways for landowners to seek out the opportunities they're looking for for liberal doe harvest that aids in population control. These privileges

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exist for all hunters, not just landowners, and those joint efforts have proven effective when participation levels are high. For example, hunters in Nebraska can buy a river antlerless doe tag for just \$13, allowing them to harvest two does on that single tag, as long as they hunt within three miles of a major river which have been identified as the most heavily populated corridors of deer. Those tags are unlimited for all hunters wishing to participate and valid across all seasons. Additionally, there are rifle seasons held in October and January exclusively for harvesting of does. Then, of course, there is our beloved archery deer season. A landowner's deer license allows for the harvest of deer using any legal weapon that is open during that season. So there is ample time and opportunity for landowners to hunt not only bucks they seek without creating new seasons but helping with the liberal doe harvest. The Nebraska Bowhunters Association has a long history of engaging in youth mentor hunts. These hunts create special opportunities for new, new hunters to bow hunt deer with a mentor. These hunts are largely successful because landowners who recognize they have an abundance of deer on their properties are grace-- gracious enough to allow new hunters under the age of 16 to have an opportunity to hunt deer in situations that may not otherwise encounter. The NBA has long worked with landowners to help manage their herds through ethical means and continue to seek those relationships. Our organization would gladly work with any landowners across the state looking for help with overpopulation by offering

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those same youth mentor hunts. The Game and Parks and Nebraska Bowhunters Association have both come up with creative solutions for helping hunters across the state put the meat of excess harvest to use. We would encourage landowners who want to harvest more deer but concerned about the meat going to waste to consider donating it to these worthy causes. The Game and Parks has a very successful program in which hunters wishing to donate to needy people can simply do so by going on-line and matching with program participants in their area. The Nebraska Game and-- or the Nebraska Bowhunters Association has an astoundingly successful program in which meat donated to our organization is processed into jerky and then shipped overseas to troops serving in the Armed Forces. This jerky is paid for completely by donations from members and the general public in fundraising efforts. The Jerky for the Troops program was started in 2009 by our members and to date has shipped nearly 4,000 pounds of jerky to troops serving overseas. In ten years, we've sent almost two tons of jerky shipped almost entirely on donations alone. So, that will cut us-- cut me off with my time. But we do also just want to say for the record that the Game and Parks has might, made some changes to a lot of the way they do policy. In particular, the way that they've rotated some of their meetings around the state to give more citizens a chance to have their voices heard as opposed to one centralized location. We've always tried to work with the Game and Parks and they've been

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generally responsive, even if our agendas don't, don't match each other so.

HUGHES: OK. Thank you, Mr. Buresh.

MATT BURESH: You bet.

HUGHES: Are there questions?

GRAGERT: Just a quick statement.

HUGHES: Yes, Senator Gragert.

GRAGERT: Thank you, Senator Hughes. I was a recipient of some of that jerky. It was very good stuff, good program.

MATT BURESH: It's done-- we partnered with Sargent Packing in Sargent, Nebraska, and they do all the jerky at cost. So they don't make any profit off of it. And they've been doing it with us for 10 years and we encourage people to go use their, their locker anytime they can. But it's a program we're very proud of. And it's just another example of, maybe, that information is not out there for people who want to utilize meat but don't know what to do with it or where to go, or anything like that.

HUGHES: Any other questions? Seeing none, thank you for your testimony.

MATT BURESH: I'd give one more thing, if you don't mind, just real quick--

HUGHES: Quickly.

MATT BURESH: --on Lake McConaughy. It's rated number four as one of the best walleye waters across the Midwest and across the country. And this year, May 3, I went out there and I caught the first three fish that I boated were a total of 27 pounds. So imagine the agony of throwing back two Master Anglers because you've already caught one that was almost 12 pounds. But a phenomenal experience out there. But then I went back Fourth of July weekend with my daughter and nieces and nephews and I'll never be back on a holiday because it was not the same experience. So thank you.

HUGHES: Thank you. Next testifier. Don't be shy. Welcome.

LUKE MEDUNA: Thank you, Senator Hughes and Natural Resources Committee. My name is Luke Meduna, L-u-k-e M-e-d-u-n-a. I'm the big game program manager for the Nebraska Game and Parks Commission. I've been in my position about 10 months, so I'm another new face. I wouldn't-- I'm up here to testify to give a little bit of context of where we are permits-wise, population-wise in the Frenchman unit. Where we're at here in McCook is the Frenchman deer management unit. To understand the context of the Frenchman, we also have to understand a little bit of the context of the Republican unit. The eastern

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boundary of the Frenchman unit is at Arapaho and then the Republican unit is east of us. It's south of Highway 6 and goes to basically Hebron, I believe. So it's, it's a pretty long unit. We step back to the early 2000s and in both units we are seeing declines in our mule deer populations, and so the agency responded with reduced permits to try and manage some of that decrease. That decrease is largely responsible to meningeal brainworm. And without diving too deep into that disease, it's caused by a nematode which has its life cycle that runs through gastropods, as well as white-tailed deer. And so a lot of time it's an interaction between white-tails. It's not fatal to white-tails, but it is fatal to mule deer, as well as moose and, to a certain extent, elk. As that disease moved westward, let's see-- I guess, in response to that disease and those declines we reduced permits. There in the early to mid-2000s as we got to about 2010 that decline had started to reverse and started to increase. In the, in the Frenchman we saw numbers increase. But that decline continued in the Republican unit. For context we, in 1997, we harvested 537 mule deer bucks in the Republican unit. This past year we harvested 54. So we've had probably a 90 percent decrease in those deer in that unit. So in all that we have responded with increases in our antlerless that allow the harvest of mule deer. In the last five years we have increased those tags sixfold, which has led to a change in our harvest. We've increased our harvest in the last five years threefold from about 300 mule deer to almost a thousand this past year. We hope to eclipse that

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significantly this year in response to these issues. In that-- in all that time, even when our permits were low, landowner permits still had a bonus antlerless permit. Across that time it was, and even this past year, only a hundred-- we had about 1,500 landowner permits that were utilized in this, in the Frenchman unit, about 150 took a mule deer-- we only had 150 mule deer does taken. So there's 90 percent of those are being unutilized or underutilized. I guess I'd also like to say that we've responded to-- I guess my--

HUGHES: Go ahead and finish your thought.

LUKE MEDUNA: We've responded, you know, many of our meetings that we've discussed, our big game meetings that we have, we've responded to complaints with increases in permits, changes in our unit boundaries to try and address many of these. Especially over the last five years we've been quite responsive over that time.

HUGHES: OK, very good. Thank you, Mr. Meduna. Are there questions?
Senator Gragert.

GRAGERT: Thank you, Chairman Hughes. How do you do your assessments on the numbers of mule deer out there? Do you do surveys? Do you do-- please.

LUKE MEDUNA: We do some surveys. Most of our surveys are doe/fawns, so we can understand recruitment and buck to doe ratios. We don't, we don't generate population estimates that we then base harvest, based

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upon per se. We've got some very high-level population estimates when people ask. The reason for that is when we're looking at harvest and populations, we're looking at what direction we want the population to go. Do we want it to go up, do we want to go down, or do we want to stay the same? And so in that, if we generate a population estimate, it would be a somewhat arbitrary number to say we're here and we want, you know, if we're at 10,000 and we want to get to 6,000. Those numbers are somewhat arbitrary in those regards. So a lot of our direction comes from input that we take from, from landowners and sportsmen and everything and everybody around us for these units. We do utilize those, those numbers that we get from surveys. We've done some aerial surveys up in the northwest. Some of those help us with a trend from year to year, but a lot of, a lot of population estimates, particularly for deer, are very difficult to generate that are reliable within a reasonable confidence interval.

GRAGERT: What's the priority then when you set number of tags from year to year? On a trend or on a yearly--

LUKE MEDUNA: We're looking at trends, we're looking at things like harvest success, you know? You know, it's the amount of effort, you know, if, if, essentially if-- if the harvest success was higher that indicates that, that the deer population has probably come up. And so

that's one indicator. There's a whole host of, of tools that we look at.

GRAGERT: All right. Thank you.

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

[PHONETIC]. Medina?

LUKE MEDUNA: Medina.

HUGHES: Medina. Thank you very much.

LUKE MEDUNA: Thank you.

HUGHES: Next testifier. Welcome.

STEVE BARENBERG: Thank you. My name is Steve Barenberg,

B-a-r-e-n-b-e-r-g. I want to share a success story on wildlife depredation. Ten years ago we were overrun with deer, both mule and white-tail, on our farm and ranch. I farm and ranch in southeastern Dundy County, right in the middle of the Frenchman. What we did, we went, you know, we visited with Game and Parks, we visited with NRCS and we discovered there's a lot of programs out there and a lot of funding available if you're willing to pursue it and work within their guidelines. Deer are interested in cover, food, and water. If you can control those three things, you will control the bulk of the deer movement. What we did was work with some absolutely fabulous people to Imperial NRCS office. And between the EQIP program, the Conservation

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Stewardship Program, the CRP program, and the Wildlife Enhancement Program we have managed to-- we have about 10 miles of pipeline to water our cattle. We extended a few thousand feet into our CRP acres and into some environmentally sensitive areas have been abandoned, you know, go-back ground, basically. And what we found is those deer now spend the bulk of the time in the CRP in these abandoned go-back acres. We don't have, you know, we don't have a tenth of the crop damage that we once had to our row crops and our alfalfa. We have about 8 to 10 hunters that we let in every year. And, you know, we explain to them, we want you to take a nice big buck out of here. We manage for trophy deer. You know, every year we consistently take out 170, 180, and 190 class bucks. If our doe population is increasing, we say, you know, you need to take-- every one of you need to take it a doe. And if they're holding steady or dropping then we pull back on the, on the taking of the doe. We've, we've planted food plots along the CRP acres which, again, food and cover. It will hold them right there. And with the water that we've put out to the, either to the edge of the CRP and the pasture or just out into the CRP, it's made a tremendous difference. And I think if people knew more about these programs, there's no-- there's-- they would be willing to do it. There's no need for a shotgun approach of just annihilate the deer. I mean, we're living proof out there that it can be done. And there are some excellent people in Game and Parks and NRCS that can help you. And the beauty of it is through conservation and stewardship we get

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paid to do this. You know, we, we-- our deer herds stay steady year in, year out, and it's been a great experience for us. And I just think more people need to know about the programs that are available rather than just view the deer as the enemy and they're eating all our crops. There's plenty out there for everybody if we can just figure out how to manage it.

HUGHES: OK. Thank you, Mr. Barenberg. Are there other questions?
Senator Gragert.

GRAGERT: Just a real quick one. Thank you, Chairman Hughes. What percentage of your ground, of your particular ground, you've gotten all these conservation practices on to, you know draw the deer to, what percentage is that versus your row crop or other crop?

STEVE BARENBERG: We're about a thousand acres of either alfalfa or row crop, we're about 600 acres of CRP, and we're about 3,500 acres of native rangeland.

GRAGERT: Thank you.

HUGHES: So you talk about-- what do, what do you mean when you say go-back ground?

STEVE BARENBERG: Oh, this is land that would have been tore up in the '30s that was either put in CRP back in the '50s or just abandoned and

it's no longer farmed. I don't know if you're familiar, there's a lot of rough, sandy ground in southeastern Dundy County.

HUGHES: OK. So, so this-- so what--

STEVE BARENBERG: It's not fenced for cattle. It's too, it's too fragile to fence for cattle.

HUGHES: OK. So how is that classified for property tax? I mean, are you paying property tax on that?

STEVE BARENBERG: Oh yeah, we pay property tax on it. It's just rangeland.

HUGHES: OK, but you're not running cattle on it?

STEVE BARENBERG: Right. Correct.

HUGHES: OK. So do you charge for hunting?

STEVE BARENBERG: No, I do not.

HUGHES: Hmm, OK. Any other questions? Thank you for your testimony.

STEVE BARENBERG: Thank you.

HUGHES: Next testifier. Welcome.

ROBERT FORCH: I guess it's good afternoon now.

HUGHES: Whatever.

ROBERT FORCH: My name is Robert Forch, F-o-r-c-h. I want to thank you for coming out to our neck of the woods. At our last meeting in Lincoln, I came out of that feeling very good about things that were going on. And since then Game and Parks, I think, have made some strides. We've got a long ways to go. One thing that I do want to bring up, I appreciate you passing LB127, which now my daughter-in-law and son-in-law feel like part of the family. They can go out with us on a landowner's permit and hunt. I don't tell them they have to stay home. The other bill, LB126, to let us start hunting, landowners hunt a week early, to me that will open up a lot of hunting land. Because if-- my two sons have never shot a trophy buck. All right? If we can go out a week early and we can kind of look at our stuff then when Joe Blow in town calls me and says, can I hunt? I am way more apt to say, yes. Otherwise, the way it stands now, I say, no, not until the kids get their deer. I think it will open up a lot more, and I would love to see that bill passed. I don't think it's going to affect anybody else because it's landowners only. And as far as the pheasant hunters and so on that may be afield, if the landowner doesn't know they're there, they're trespassing, pretty simple. So I would love to see that bill passed. I want to thank Game and Parks. They have approached me since our last meeting and stuff here of the depredation permits. I was issued 10, and we never filled any because of the human

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consumption ended that. I could not find anybody that would come out in August in the middle of flies and the mosquitoes that wanted to gut a deer and do anything with it. And so I talked to Lance, and Lance-- they brought a crew down, they shot six deer out of my cornfield. But for those six deer they drove a total of a thousand miles. There was a total of five people that spent most of the day there. And I don't know what that equates to in money, but I'm guessing 300 to 400 bucks a deer, and it's not cost-effective. They found out the same problem that I do. They got four deer the first day, two deer the second day, and couldn't find any the third day because they're too damn smart. So the program, like I say, I appreciate what they're doing. It's not the answer. We've got so many stinking many deer there that-- and which brings me to we need to be micromanaged a little more. The big issue with mule deer, as I understand it, is between Stratton and Imperial seems to be the worst of it. And we've got mule deer coming out our ears. And they talk about maintaining these herds and stuff, you know, that we want to maintain, we want people to hunt. Well, so do I, but not at these numbers. My first deer license was in 1965 and I hunted all week to find a buck. That's not a problem now. From the looks of that light, I got to get moving, don't I? But the human consumption thing, if we can, you know, coyote has got to eat too, let me shoot some of those. The damages, my damages are there again this year and they're horrendous. As far as the programs to work things there, if Game and-- if they want to come out and the stewardship program will

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pay about \$40,000 a year. And if they want to just give me \$40,000 a year for the damage on my corn, I'll shut up. You won't see me anymore, you know, and I'd be tickled to death. I get accused of not letting people hunt. I do, selectively. I'm not going to throw my gates wide open for anybody. But I do selectively, and it's another part of what I hate with this is I didn't get in farming to be a politician to have to sit there and select who gets to hunt and who doesn't. But I will not open my gates wide open to the public. We've got to find a way to shoot more does. We've got to control the doe population because most-- everybody that hunts-- I went on the game commission's list and I've had I don't know how many phone calls and most of them, can we hunt? And I said, yes. It's does only and you got to walk. Wasn't very many of them showed up. But we did have people, I and two of my neighbors, we had people from five states that came in and hunted in that January deer season, the doe season. And we took about 80 head of doe out of our area right there. And it wasn't a dent in the population. I met some really good people. I had to stay with them to keep them from crossing fences where they didn't need to go, because then they got their butt chewed and I got a phone call. And so it took a lot of my time, but I met a lot of good people. But I don't want to be a hunting guide. That's, that's not my thing. GMO corn that the deer don't want to eat, they-- we can't get people to handle GMO

crops now. Nobody wants GMO stuff. Brain worm, where can I buy it? But anyway--

HUGHES: We need you to wrap up.

ROBERT FORCH: OK. I appreciate what the game commission has done. And as far as selling out those permits, I do believe that they-- I think they sold out on those doe permits, you know, in the Frenchman west select. And as far as what deer need: food, water and cover. Can't beat a pivot. And that's where we find them all. So, to me, I-- we either need to be getting paid for damages or we need to trim these herds to where it's acceptable that I can make a living again. When I walk through Cabela's and Bass Pro and stuff, I look at all of the camouflage clothing, the shotguns, the rifles, the bows and arrows, the everything else and that's all there because of me. If I don't open up and let people hunt this big game, they've got nothing to sell. And I want to know what I get.

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

HALLORAN: I hate to pay you for damages, because I enjoy hearing you [INAUDIBLE].

ROBERT FORCH: Well, you found out there a few months ago that I like to talk, didn't you?

HALLORAN: Thanks for your testimony.

HUGHES: Any other questions?

ROBERT FORCH: You bet.

HUGHES: I guess, just, just one point for the group, thank-- thank or blame Mr. Forch for this hearing today. I mean he, he called me and had concerns. We developed legislation together. So the process does work. You know, your elected officials do listen to you. Don't hesitate to contact them. But thank you, Bob. I appreciate it.

ROBERT FORCH: You're welcome. I appreciate the attention and your consideration and take a good close look at LB126.

HUGHES: Welcome.

JOE ANDERJASKA: Hello, I'm Joe Anderjaska, I'm from Hayes Center. J-o-e, Anderjaska is A-n-d-e-r-j-a-s-k-a. I'm a lifelong farmer and rancher in Hayes and Frontier Counties. The deer population, I guess, agree with Mr. Forch, you know, the does are just unreal. You know, damage is amazing, has been for a long time. And, you know, anything they do doesn't really seem to matter because everybody wants to shoot a buck. And I've tried leasing land on a basis on the number of points that the buck has, and for every doe you shoot, you get to deduct money off what you pay me. And still can't get people to shoot does. I guess I have a question. Why, because I know Kansas did at one time and then they quit it, I know Kansas Livestock Association is really working hard on getting that again, why can't landowners be issued

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permits and we get to do with those permits what we want? Because we are the people who are raising and feeding all the wildlife. You know, if we want to sell those permits, if we want to tear them up, if we want to use them ourselves. And, you know, they could base those permits on, you know, the amount of land, if it's an area that's heavy populated with deer, you know, say five permits per section or, you know, however they want to do it. You know, I don't know. But I guess my biggest concern with the deer population, you know, the damage on crops is horrendous. But I am a rancher first and I am worried about disease. I had a bull sold to go to Argentina at one time and the bull tested positive for bluetongue, which is a deer disease. Livestock, cattle will get it. So, could not ship him to Argentina because of their sheep. Cost me a lot a lot of money. I contacted Game of Parks and got run around. And at that time, I was told that there was a fund that I could put my name in the hat to see if I could get some of those dollars. And they told me that fund had \$5,000 in it at that time. You know, no thank you. But I guess I'm concerned about what would the state of Nebraska do if we had a foot-and-mouth outbreak? Cloven hoof animals would spread that disease. Our deer, you know, we could, as ranchers, could isolate that disease. But with our deer population, there's no way we could. And who would pay for that? I mean, it would break every rancher around. I was visiting with a man who had been through an outbreak in Uruguay and he said they don't have any wildlife like that. They've got like an ostrich-type bird is

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the only thing they have that kind of runs around. So he said they isolated it and, you know, it was taken care of pretty easily. But that's it. He was wanting to know, you know, what we did, you know, what was in place. I said, I don't know. And it's a huge concern. And I'm kind of disappointed, maybe they're, they're shy and not up here yet, but I hope we get someone from the insurance side of things because I can't believe all the damage to vehicles that there's not somebody up here talking about that. Because I'd hate to think how many dollars I've spent on personal vehicles putting on big fronts, you know, and have small trucking company and, I mean, you run miles, you hit a lot of deer and, you know, spend five grand a truck putting a front end on so that deer bounce off instead of, you know, stopping so.

HUGHES: Thank you, Mr. Anderjaska. Are there any questions? Seeing none, thank you for coming today.

JOE ANDERJASKA: Thank you. Appreciate you coming to this part of the state.

ROBERT FORCH: Senator Hughes, can I make one more comment real quick?

HUGHES: No.

ROBERT FORCH: I can't?

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HUGHES: Wait your turn. You can come back up. There's a gentleman coming.

TED GANS: I would share if you would like to, if you'd like to add, you're more than welcome to.

ROBERT FORCH: Well, it's going to take me two seconds. I'm just going to say, Game and Parks, with the-- those January deer permits or doe permits are the best thing that worked for me.

HUGHES: OK.

ROBERT FORCH: And--

HUGHES: That's, that was, that was Bob Forch.

ROBERT FORCH: It's a great tool.

HUGHES: For the record.

ROBERT FORCH: OK, it's a great tool.

HUGHES: Welcome.

TED GANS: Hi there. Senator Hughes and committee, my name is Ted Gans, last name G-a-n-s. I'll start off by saying that I've lived in McCook, in this area for 14 years. I'm actually a landowner myself and an avid deer hunter and a sportsman. The animals in this area are a natural resource. They are natural resources to this community and to this

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area. Sportsmen bring in thousands of dollars and stimulate this economy: motels, restaurants, so forth. We have an issue in this area with access, land access. We, we-- there is a lot of deer. There are a lot of deer. This Game and Parks has issued more permits than they have ever issued before. We have more tags being issued than I have ever seen. But yet what we're hiding is the fact that there's a lot of nonresident hunters that come and pay landowners good money to hunt on their land. And in return, they only shoot a buck. That's what we're looking-- we're talking horns. Early season hunting, we want to shoot big bucks. We hide-- we, we, we pay money, we have these nonresidents come in. They pay big money for big bucks. There's no stipulations put on them, as far as, if you come and hunt a buck, you have to shoot does. Then in return these nonresidents come shoot the big deer and then now we have a doe problem. Well, how do we handle this problem? It's mismanagement, and I as a landowner-- I understand, I'm a landowner as well, it's mismanagement. If you're going to have to nonresident, or any hunter for that matter, come on your property, make it a stipulation as a landowner that being, being a steward to your land, that you are to take at least two does off on my property along with your buck. I don't care the sequence of how you do it, but kill some does. But to just make money over here and on land and on people coming in to hunt and then complaining about the deer, and we need to not-- it doesn't, it doesn't, it doesn't mesh, it doesn't mesh. You have to be a steward of your own land and manage those. In

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addition, no matter what job you do, there's loss. There's been loss from animals, whether it be grasshoppers, whether it be coons, turkeys, where do we stop? It's not just deer, it's not just antelope, we can't, we can't obliterate all these animals, they're a natural resource that other people enjoy and, and, and are important to this state. The Game and Parks, I believe, managed it well. I'd like to see some seasons shifted around. I'd like to see some seasons shifted around, maybe for bigger buck management, if we're interested in bigger deer. But we need to be stewards of our own land, understand that there's always going to be loss. I think that what we're looking at here is because of the farm economy, where it's at and price per bushel on corn, that's this has now become a concern where it hadn't been when corn was \$8 a bushel. And so, it-- this is, this is being raised. And I understand, but there's loss in everything we do. No matter what occupation you have you're going to have loss. And I believe that, I believe that the Game and Parks is doing a good job. And I believe landowners are responsible for managing their own deer, letting more people on to hunt. And the people that they do have hunting make it-- make them accountable as far as taking does and not just big bucks.

HUGHES: OK, very good. Any questions? Thank you, Mr. Gans, appreciate it. Don't be shy. Welcome.

JAMES SWENSON: Good to be here. Good afternoon, Senator Hughes, fellow senators, committee members. My name is Jim Swenson, J-i-m S-w-e-n-s-o-n. I have the privilege of serving as a parks division administrator for the Game and Parks Commission and service the citizens of Nebraska. Wanted to speak a little bit about the efforts that we have undertaken as an agency to address some of the issues that were brought forward during the meeting yesterday. And we're always sensitive to issues that pop up. One of the greatest assets we have is our ability to listen to our constituency. That's the greatest form of communication when we listen to the people that we serve and we take that very sincerely, so please know that. Also commend you, Senator Hughes, for making kudos to the staff. They are a great asset, probably one of the better assets that we have in the, in the agency as a whole is that people are out there working hard for us. Want to talk a little bit about a statement that was made yesterday during a hearing that at the end of the meeting we didn't get a chance to respond to, and it was about our poor ability to address some of the growing needs for infrastructure and such as showers, buildings, and campgrounds in the state of Nebraska. Over the course of last few years we have been working aggressively to invest into resources across the state in terms of shower buildings and restrooms alone, which were sited. We have spent over \$5 million in upgrades, added over 20 shower facilities to the, to the park areas, well over 50 concrete, storm-proof type restroom vaults across the state of

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Nebraska, east and west. I spent a large part of my career in the western part of the state working in the southwest reservoirs and I know and I understand the value of the recreational resource to all citizens, including everyone in this part of the state. So it's good to be back here. We got a lot more work to do. We've heard our constituents. Two of the top suggestions that were weighed with us in recent years are the need for more campgrounds and improved campgrounds. We are undertaking an effort to do that. Part of that effort is to generate funding to create that opportunity. We're raising more capital dollars so we can reinvest those dollars. Gentleman earlier today made reference to our fee structure. That's a result of our efforts to try and generate more money and to create more resources out there, recreational resources. We're dependent on those user fees. Seventy-five percent of our, of our investment, our budget comes from those user fees. So it's critical that we, we have those. In regards to Lake McConaughy, the comments there, I'm, I'm confident Director Douglas is going to speak yet later today. He'll address some of that as well. But we've undertaken a great effort at Lake McConaughy to come forward and make that area more secure for individuals. The Labor Day weekend was a good testament to what our success with that can be with our stepped-up efforts there, and we will continue down that path to make make improvements there and make it a safer, more enjoyable recreational resource for all, all citizens of Nebraska. In reference to the Bortner Grove that was cited a little

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bit ago, we'll dig into that matter. It's good to hear that situation exists. We need to know about it. It's on a wildlife management area, so in collaboration with the wildlife team, and we got great collaborations in the agency, we'll see if there's something we can do to help them with that matter. Look into it a little bit and see if something can be resolved there. Part of the expansion of our campgrounds there are limitations come with it. You can help us there. We have landscapes that are limited in that, in our ability to expand and the resources available to us, also slow our progress a little bit. But we have experienced growth. Over 500 campsites in western Nebraska have been upgraded. We've added over 200 new campsites to our inventory across the state. So we are taking an effort to move forward in accomplishing that. I see the red light is on, so I'll take questions please.

HUGHES: OK. Thank you, Mr. Swenson. Any questions? Seeing none, thank you for your testimony. Don't be shy. Welcome.

PATRICK MINARY: Patrick Minary, M-i-n-a-r-y. Got a lot of deer dam-- got a lot neighbors in here, got a lot of mule deer damage up by, oh, in the Maywood, southwest of Maywood area. Just, you know, just causing a lot of damage to corn there, I wanted to say. And I don't know if any of you guys have ever heard like a straight wall season for like, like Indiana, Michigan, I think, Ohio I know for sure does that there. And maybe can run like concurrent with a muzzle loader

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season maybe. It's like, it would be like a 45-70, you can run a .357 Magnum on up there for as far as cartridges go in December or something like that, or a possibility. Because we, we do allow written permission there. We're more apt to allow archery and stuff there, because we have found bow hunters that have had found cows there like in their washouts and stuff like that and saved-- made us actually-- bow hunters, you know, are actually beneficial. But when the rifle season comes there, we've got a guy in here who can verify this there, we, we have had a pivot shot there and during the rifle season there, you know, going after a big buck causing the-- where, you know, it hit the-- hollow point hit there and expanded there. You can see the expansion there on there going through on a, on a cable there of all things. We tried to move a pivot there at harvest and stuff there, and it would give-- in like a December season there, it would give us a little bit more opportunity for us landowners to hunt too and, and give out opportunities for other people to hunt when we got our cows out to stocks and that kind of stuff.

HUGHES: OK. Thank you. So what, what kind of-- straight line or--

PATRICK MINARY: Straight walled.

HUGHES: Straight walled.

PATRICK MINARY: Forty-five-seventy, .357 Magnum, .44 Magnum, .44--

Winchester came out at SHOT Show with a .350 legend, it's a brand new cartridge there. It's actually a .223--

HUGHES: So what, what does it do? Why are they special? I'm not--

PATRICK MINARY: It's just not-- you wouldn't have near the range there. People are coming out with their--

HUGHES: Shorter range.

PATRICK MINARY: Yeah. With their-- higher than a .308, they're coming out like with a-- you know, there's people out there trying to get their buck with a big .300 wind mag or something similar, you know? And you just don't want that around cattle and stuff.

HUGHES: So have you, have you worked with Game and Parks at all, have you contacted them?

PATRICK MINARY: Yeah, we have there. And like-- and like--

HUGHES: Trying to get your numbers down?

PATRICK MINARY: We had a depredation there, but like getting that harvest there, the meat harvested in there when the corn was tall and stuff like that there, I tried to-- I knew-- I knew a guy, probably, I could bring along, but I just didn't have time there. I was going to-- when I was mowing down cane, but when it was raining there, I couldn't

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get toward the end of the season there, I couldn't get, get him out there or whatever but--

HUGHES: Yeah. OK. Any questions? Thank you for coming in today.

Welcome.

STEVE KOLLMORGEN: Thank you. Thank you, Senators. My name is Steve Kollmorgen, S-t-e-v-e K-o-l-l-m-o-r-g-e-n. I'd like to address the deer issue also. We've heard a lot of things about the depredation tags, which, which I agree with. The January season for the doe is a good idea. But I kind of want to focus on the economic loss that I've incurred, and I know a lot of other farmers have. And my idea is the landowner voucher program. And I'll kind of explain that, but in all-- it allows the landowner to purchase a tag and then turn around and sell that tag for potential profit. It's not going to recoup all the costs, but a little bit. So I'm just going to go through and I apologize, because I'm just going to read this, but anyway. We all have the same goal, and that's to reduce the population, population of deer. I would just like to compensate the farmer in the process for the past four, five, six years, whatever it is. One of the previous people said that everybody incurs loss. Well, that's true, but when you put a mule deer conservation unit right over the top of us and then limit the number of tags, all of a sudden the numbers go up and the loss is a lot greater. So a land-- a landowner voucher would, would be transferable and sellable. It would allow the farmer to

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recoup some of his costs. Landowner tags have been done around for a long time in other states. I was just out elk hunting, I was talking to some farmers-- some hunters at a, at a shop and they said, oh, we picked up landowner voucher for this unit. It's not, it's not a foreign thought. A nonresident could secure a landowner voucher tag without going through the application process. It would allow him to her to plan a trip two, three, or four years in advance and then have a place to hunt with that tag in hand. A qualifying farmer/rancher or landowner/operator would apply for and buy a landowner voucher. That tag would then be transferable either by sale or gift to anyone who is qualified or to any legal outfitter in the state in Nebraska for the purpose of harvesting deer in that specified area. There are a lot of details about a landowner voucher program that would have to be worked out, whether it's just the farmer, whether it's just the owner, the operator, stuff like that. But it's, it's a, it's a conversation that can be had and those things can be figured out. Some of the benefits. Rather than asking the state of Nebraska to compensate me for growing their deer for them, I would just sell a permit. I would buy the permit for a couple hundred bucks, whatever it is, I would be able to turn around sell that permit for maybe a couple thousand bucks. Like, like one of the other guys said, yes, we're-- they're hunting for antlers. Now, if you want to put stipulations on that and make them shoot a couple doe in order to get that antler that's fine. Other benefits. State of Nebraska sells that landowner tag to me for, right

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now for 16 bucks. You know, they could sell a landowner voucher tag to me for two or three hundred bucks, make them more money for the state of Nebraska then I can turn around and sell it too. The community's benefit. When out-of-state hunters come in, they spend a lot more money than the guys from McCook that just want more access. You know, the guys from McCook aren't spending any more money than they normally are, but a doctor from, from Utah that can line up an out-of-state hunt, he's going to come in and spend some money. Outfitters in the area would also benefit by being able to secure some of those tags and then you would let them hunt on, on your land. Drawbacks. You know, not every landowner or operator would necessarily qualify. There would have to be some benchmarks, you know, you've farm so many acres, or you, or have-- you have so much damage or you have to prove that there's damage. But just a way to allow the landowner to recoup some of that costs that he's had over the last couple of years. In conclusion, we're all trying to come up with a solution to the problem. I'm trying to figure out how to make a profit farming when 10 to 15 percent of my field sometimes are gone. I farm along a huge canyon area and the turn rows on those fields are completely gone most falls. The Game and Parks want to issue depredation tags, and that's fine, they should. But that doesn't help the revenue that I've already lost. That might help in two or three, four years, but what about the

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last three or four? I know that selling one or two landowner tags per year won't recoup all my economic loss, but it's a start. Thank you.

HUGHES: Very good. Are there questions? I-- those are some good ideas. Thank you, Mr. Kollmorgen. Next testifier. Do you have a green sheet?

JIM DOUGLAS: I do. Thank you for the reminder.

HUGHES: Welcome.

JIM DOUGLAS: Thank you. Chairman Hughes, members of the Natural Resources Committee, good afternoon. My name is Jim Douglas, J-i-m D-o-u-g-l-a-s, and I serve as the director of the Nebraska Game and Parks Commission. It's my pleasure to be before you again today. I want to start by thanking Senator Hughes and the committee and the staff of the committee for holding these public hearings to further discuss issues of great importance to all Nebraskans. And I want to assure you that our commissioners and myself and our staff are listening to all of the suggestions, the issues, and the discussion about them that have occurred yesterday and today. And we intend to use those, that information to the best of our ability to make any programs we have, or initiatives we have, or service to the to the community and citizens better. With that, I would just make a few comments. Again, yesterday, you know, not everyone that was at the hearing yesterday, of course, heard things that I had to say. So I did want to reiterate that we do have a plan at Lake McConaughy to both

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increase staff and increase conservation officers and also, essentially, just like we know the, the simple point about deer is we need less deer. The simple point about Lake McConaughy is we cannot sustain the amount of visitation that we have and balance the infrastructure that we're able to provide. So we have been providing more infrastructure and we'll continue to do that, but we're going to create individual camping sites and they will be on a reservation-only basis. And we will also limit day use. And we've been able to accomplish-- or be able to accomplish this next year because of some of the work we've been doing the last couple of years. We've spent \$5 million trying to improve some of the infrastructure and roadways and change that. Also, we've initiated discussions with the county commission and also with the sheriff's office and State Patrol about ways that we can work together and, in some cases, form interlocal agreements that would help us to work better together and maybe share some financial resources. I wanted to also touch a little bit on the park system. We have a really good park system. When, when the-- when my peers come to Nebraska and when Jim Swenson's peers come to Nebraska and when we go to their states and when we go to national conferences we get lots and lots of compliments about the park system that we have, and the citizens of Nebraska have a right to be proud of it. We do realize that there are situations, you know, here and there that need attention. But I don't think that we've heard about anything that we didn't know about and have a plan to work on. We before--

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before the Appropriations Committee of the Legislature we gave precise examples of our capital development plan for the next 10 years and the priorities for that. So we're working on that. We appreciate any assistance any state senator, any committee can give us in that regard. And I do have some suggestions in that regard for another conversation sometime. Regarding the things that we've heard about: depredation and reducing the deer population, especially in this part of the state and others. We didn't mention elk here today, but we certainly did yesterday. And as I indicated yesterday, I think that, you know, we've come to a realization that there's places where elk and corn have met where they didn't meet 10 years ago. And we have to look at that critically and decide if we can afford to have any elk or only a very few; you can't always eliminate all elk, but that's something that we will look at. Commenting on, commenting on, on ideas for reducing deer herds, I do think, and many people said it today, we have to find ways to kill more antlerless deer that are efficient but also satisfying to landowners and work for them and work for sportsmen. And we're open to further discussions about any and all of the topics that we've discussed in the last two days.

HUGHES: Thank you, Director Douglas. Questions? I guess I would like to quiz you a little bit on the landowner voucher that the last gentleman talked to, Mr. Kollmorgen. Have we ever had anything like that? Or just what are your-- what would be the thoughts off the top

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of your head of something like that? You and I have had a lot of conversations about how do we compensate the landowners for the damage that's being done.

JIM DOUGLAS: So I think that-- I'm aware of transferable permits that had existed. For example, in Kansas they, they, they quit doing that. I can talk about that a little bit. Then there was voucher systems, and still are, voucher systems in Wyoming. So there's-- they're a little bit different. In the transferable permits that Kansas had, landowners got permits and then they could, as was indicated, they could sell those or do whatever they wanted with them. The reason that they quit doing that was because, as you also heard, you know, the people that will pay the most for those are nonresidents who want to shoot bucks. And what it did in Kansas is it, it eliminated a lot of access for their resident hunters and it also contributed to overpopulation, because not enough does were killed. Now I'm not saying that there aren't permutations that would be different than that, but that's, that's what happened in Kansas. And then in the voucher system in Wyoming, the way that works, at least to my knowledge, is that there's vouchers that are given to landowners who kill an animal on private land and then they can return that voucher to their fish and game department for, I think it's \$16 right now in Wyoming. There's probably permutations of that that would apply, for example, only to antlerless deer that were checked. If our goal is to

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increase the harvest of antlerless deer. They did have and still do have some, some fraud problems with that in Wyoming where, where people just sort of hand those out. So if it was-- it had to be turned in for a checked deer rather than just a statement that I shot a deer. And we have a checking system in Nebraska. A lot of states still don't have it. But if you had to turn in for a checked antlerless deer, for example, that would be a different permutation. But as I mentioned, there may be other things, and we're willing to talk about lots of different things that we might be able to do.

HUGHES: OK. Thank you. Any other questions? Seeing none, thank you for your testimony. Any other testifiers? Welcome.

CAROL SCHLEGEL: Welcome to McCook. My name is Carol Schlegel, it's C-a-r-o-l S-c-h-l-e-g-e-l. I'm the director for the McCook/Red Willow County Visitors Bureau. But like a lot of people in this room, I also have another part of my life where I've been a farm wife for, getting close to 40 years now. So the parts of the, the damage from the deer, the waking up to shotgun blasts on the opening weekend of pheasant season is something I'm really well familiar with. I've spent more than my fair share of time fixing fence from deer damage. But that's, that's been well covered here. And so I wanted to talk a little bit about my relationship with Game and Parks and the assistance they have given the entire southwest Nebraska area in promoting hunting and fishing particularly. I handed out-- these are actually my pop-up

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banners that I take to trade shows, and I show-- and I make available to others that are doing trade shows around the region. I also work with a group of six counties in southwest Nebraska to promote travel to this area. And the one thing that we all have in common is the outdoor recreation with the hunting and fishing. We have been blessed with maybe too much at times. And then in the case of the bird population, we've definitely seen that go up and down over the years. I also grew up in the hotel and restaurant business here in McCook. So I've seen both sides of it. And I remember the days where opening season of pheasant was like Christmas and we all planned on it. That's how we paid for Christmas, basically. But Game and Parks has made their assets available to us. They've made their staff available to us. The, the first pop-up banner-- all those photos are from Game and Parks. There isn't any way that we could have that quality of assets available to produce the things that we would like to produce without the use of Game and Parks assets. Their staff is very responsive to us. They've made it possible. I attended Pheasant Fest a couple years ago when it was in Sioux City-- or in Sioux Falls, South Dakota, to see what kind of things that we could do to better promote the pheasant hunting in the, in the area. From my standpoint for the promotion of the area, Game and Parks is one of my best assets to be able to rely on and I hope we continue. The last page of this shows some birding. We actually provide some prairie chicken tours here, which we actually started with a grant from Game and Parks to purchase

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an old stock trailer to refurbish into a viewing blind. So there are a lot of levels that we've been able to work with them over the years and to use their resources as part of ours. Thank you.

HUGHES: Thank you, Ms. Schlegel. Any comments, questions? Seeing none, thank you for coming. Next testifier. Welcome.

RYAN PATE: Thank you, Senator Hughes, committee members. My name is Ryan Pate, R-y-a-n P-a-t-e. Not a landowner, but I am a hunter in southwest Nebraska. In addition to that, I'm a member volunteer for Pheasants Forever. I just wanted to address the committee a little bit about kind of some of the partnerships that Pheasants Forever has with the Game and Parks and some things they have done. Pheasants Forever has a strong interest in providing quality assistance to private landowners and hunters in Nebraska. They work with the Game and Parks regularly through, through private land partnership programs like Corners for Wildlife and the Grassland Improvement Program. They also partner with the Nebraska Game and Parks on the voluntary public hunting and fishing access program, program Open Fields and Waters which is-- I love that program due to the fact that I'm not a landowner and so access to hunting is a little tough at times. And so that's a great program. They have been able to provide over 300,000 acres of public access on private land and improved 30,000 acres on publicly owned wildlife management areas. These programs and opportunities for both landowners and hunters rely on state and

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federal funding generated through license sales. I feel the Nebraska Game and Parks does a great job working with the partners, the hunters, and landowners to create the win-win options for, for landowners and hunters. With Nebraska being 97 percent privately owned and a top pheasant and quail state Pheasants Forever's 135,000 nationwide members respect and rely on partnership programs that bring local, state, and federal funding to make large-scale impacts. You know, PF, Pheasants Forever, myself included, you know, very interested in bringing up that next generation of hunters. I'm a hunter ed instructor as well, we do use mentor hunts. And I think there's some opportunities there maybe with some of this deer depredation or crop depredation through mentoring programs we can start, you know, taking care of some of this stuff with some youth mentoring programs, and not only youth but other, other individuals that, that don't hunt, don't have access to. Generally about every year our chapter, Pheasants Forever chapter, does to youth mentor hunts, one being a dove hunt and then the second being an antlerless-only deer hunt usually in late season. So I think those things are truly important. And thank you for your time. That's all I had.

HUGHES: Thank you very much, Mr. Pate. Are there any questions? Seeing none, thank you for coming today.

RYAN PATE: Thank you.

HUGHES: Welcome.

MARK FRITSCHÉ: Hello, Senator Hughes. My name is Mark Fritsche, it's M-a-r-k F-r-i-t-s-c-h-e. One of the things that we haven't really covered is the cost per acre of the crops that are being damaged. And I put together this morning, I went through my expenses and for planting corn for seed I have \$47 an acre. And this is dry-land corn, this isn't irrigated. So irrigated would be even more than this. Fertilizer, \$102.73; chemicals, \$38.35; insurance, \$26.99; property tax, I estimated on that it would be around \$20 on, on farm ground, on my farm ground. And then just for maintenance, gas, fuel, and repairs I estimate around \$75 an acre. Land payment, \$23. And it comes to \$332.97 an acre that is put into it. I currently, and I have land next to Joe Anderjaska, and he is gone, but he could verify that I've got a field that probably has about 25 percent damage. And, you know, you talk about some damage, you-- some losses, but nobody can withstand that kind of, that kind of damage. And overall I, I figure, you know, I've got another field that's probably got about 15 percent damage in the rest of them probably about 5 to 7, so overall we're looking at probably a little over 10 percent damage. We-- I appreciate Mr. Forch, what he's done. And I, I wholeheartedly-- everything he said I agree with and support. One thing that I would kind of be curious to know about is the cost of, they have been studying the deer population.

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They have been capturing them with helicopters, fitting them with electronic devices and tracking them. I can't imagine how much that would cost. I would truly like to know the cost of that program. And I guess I'm in there with the fact that the damages over the years has been exponential, it's just been increasing from year to year. And I'd like to see some damages paid for as well. It's something that, like I said, it's gotten out of hand. And we are taking steps. I got to give Lance Hastings at the Game and Parks credit. He is working his tail off in my place trying to, trying to take care of the damage. I wish we had pictures of it. I think you can't really truly appreciate the damage until you see it in person and then you're just like, oh my goodness. And I think Pat Molini has been there, he's done that. I think that's why he understands so much about what we're facing. And another thing that Mr. Forch brought up was my kids are in college. It's, it's tough to go out on that first date to hunt deer. I too would like to see the season opened up a little bit earlier for them to be able to-- if I'm raising them, I should be able to, my kids ought to be able to get the best we have. On two different occasions-- my daughter likes to stalk deer. And on two different occasions she has stalked deer just to have somebody drive on the road, shoot the deer, drag it in their pickup, and take off. And, you know, as, as Mr. Forch said, I would be more inclined, I do allow a lot of hunting, as much as I can, but there's also a safety feature factor that you have to, you know, I put people in different spots. And you know not

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everybody can hunt, that I would allow more people to hunt under circumstances if my kids had their deer. But it's too dangerous just to allow everybody. Yeah, red light.

HUGHES: OK. Thank you. Are there questions? I guess I do have one. How hard is it, would it be to document the damage on your farm with today's harvesting equipment? Can-- is it easily identifiable?

MARK FRITSCHER: Oh, yeah. Yeah, I mean. You mean as far as acreage?

HUGHES: Yield mapping and those type of things.

MARK FRITSCHER: I mean it could be measured, I suppose. I don't know if we can measure it somehow.

HUGHES: But it would, it would be easily documented. The challenges of putting, putting a number on the damage--

MARK FRITSCHER: Right.

HUGHES: --to, to your farm and your cornfields.

MARK FRITSCHER: Yeah, well, I mean, yeah. I mean, virtually the places that are damaged are, there's going to be very little corn in there. Just to give you an example from last year. I had a field on the east side of the road that made 160 bushels and I had a field on the west side of the road that had considerable deer damage. And it averaged 115. And Brandon Pernicky [PHONETIC] has seen the-- he's seen, he had

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seen that field, so he knows the damage on the, was on the west side of the field. And there's there's a lot of pockets, a lot of cover in there that there's no water and no fences, so I don't graze it. I do in the wintertime but not in the summertime. And I think the, the deer get started grazing on the corn real early and, and they just bite it off. And so you lose a lot of stand in those fields, and then after it gets a little taller they keep taking the tops off so they can't pollinate. And so virtually you end up with hardly anything in those spots, in that area.

HUGHES: Yeah, thank you. Any other questions?

MARK FRITSCHÉ: Did I answer your question about verifying, you know, to be able to verify the amount of damage?

HUGHES: I, I think with yield mapping, the technology that we have in agriculture today, it's pretty easy to identify the areas of the field that have lower yields.

MARK FRITSCHÉ: Yeah, yeah.

HUGHES: Yes, thank you. Thank you for your testimony.

MARK FRITSCHÉ: Thank you.

HUGHES: We appreciate it.

MARK FRITSCHÉ: For allowing us to, to have this time.

HUGHES: Welcome.

LIZ LOAR: Thank you, senators, counsel for being here today and listening to our concerns. Because you are the Natural Resources Committee I am addressing you for a slightly different matter.

HUGHES: Name?

LIZ LOAR: My name, excuse me, is Liz, L-i-z, Loar, L-o-a-r. I am a member of the Medicine Creek Cabin Owners Association, and I'm here to speak publicly because we've had very little chance to speak publicly about the issues of the three trailer parks being kicked off of the lakes in southwest Nebraska. And Medicine Creek seems to be the main target. And we feel that they're, we are being treated unfairly by the bureau. We're not being held equally with the other two trailer parks. The three trailer parks are: Hugh Butler, Swanson, and Medicine Creek. And since 2015 the Bureau of Reclamation has decided that we need to be removed from the premises. They have not finished their studies. There's, there's several things that they are not following in their own procedures. First of all, it was predecisional. They didn't conclude-- they have not completed any of their studies. They are now working on a resource management plan which is still in the works, they have not finished it. There is a survey out that they are doing on-line and by paper. That is not up for completion at least for another year. We have until October 31 to vacate our premises of this

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year. Another thing, they have not done a NEPA, National Environmental Policy Act. They are not following up on that. There's been no public input, there's been no look at alternative solutions. And we feel that is not fair. We have not been able to address the public about this issue as the other trailer courts have. We feel that we need to be treated equally with the other three trailer courts. We feel like we've been singled out and not comparing apples to apples. We are three trailer courts that are basically the same. And we just want to make sure that we get fair treatment with the other two trailer courts.

HUGHES: OK. Thank you, Ms. Loar. I know we have had communication between you and my office.

LIZ LOAR: Yes.

HUGHES: Other questions? It's unfortunate. Now, I have not gone and seen the site and why, you know, Medicine Creek is being targeted-- your words-- and the others are not, I don't know. But unfortunately, as I indicated to you in our correspondence, it is more of a federal issue than a state issue. I have heard from a lot of cabin owners in, because this is the district that I represent, and I've done everything that I can at the state level. But it is not a state issue. And I'm sorry for that, that I couldn't do more. But, you know, keep, keep going, keep after it. Because it's important. I mean, it's a good

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tax, you know, property tax is being paid on those trailers so, and as economic activity so. Any other comments or questions? Thank you.

LIZ LOAR: Thank you for your time.

HUGHES: Anyone else? Going, going--

ANTON SPILINEK: Can I make one--

HUGHES: I knew it. I knew it.

ANTON SPILINEK: I'm "Tony" Spilinek again.

HUGHES: Spell it.

ANTON SPILINEK: S-p-i-l-i-n-e-k. Like I listen to a lot of comments really quick about all the deer. I understand all the concerns. I want to bring up one thing that my son said to me that was probably the most powerful thing I've ever had him say to me in my life. We were out hunting, deer hunting. He didn't get his deer last year, I got my dear on the last day. Probably only the second buck I've taken in probably seven or eight years. And the thing my son said to me is he goes: There's nothing better than hunting with you, Dad. And I just wanted to bring that comment up. Thank you.

HUGHES: That's good.

ANTON SPILINEK: Thank you guys.

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HUGHES: Any-- don't go there. Anybody else? This is, this your chance.

OK, I appreciate everybody coming. I appreciate the information, those that you, of you have testified and shared your story. I understand it's not easy being in that chair, but I do appreciate the fact that you came in to let us know your thoughts. The information that we garnered yesterday and today the committee will look at. I know the commissioners and the staff of Game and Parks will be looking at that as well. We've got some challenges and we need to deal with them. So thank you, everybody, for coming. We appreciate it.