

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**BOSTELMAN:** Welcome to the Natural Resource Committee. I am Senator Bruce Bostelman, and I'm from Brainard. I represent the 23rd Legislative District. I serve as Chair of this committee. The committee will take up the bills in order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing. This is just part of the process, as we have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Introducers will make initial statements, followed by proponents, opponents and then neutral testimony. Closing remarks are reserved for the introducing senator only. If you're planning to testify, please pick up a green sign-in sheet that is at the table at the back of the room. Please fill out the green sheet in-- before you testify. Please print, and it is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to a page or to the committee clerk. This will help us make a more accurate public record. If you do not wish to testify today but you would like to record your name as being present at the hearing, there is a separate white sheet on the tables that you can sign for that purpose. This will be a part of the official record of the hearing. When you come up to testify, please speak clearly into the microphone, tell us your name, and please spell your first and last name to ensure we get an accurate record. I ask, please speak loudly. We will be using the light system for all testifiers. You will have three minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining, and the red light indicates your time has ended. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise, is allowed at a public hearing. The committee members with us today will introduce themselves starting on my left.

**GRAGERT:** Good afternoon. Tim Gragert, District 40, northeast Nebraska.

**HUGHES:** Dan Hughes, District 44, eight counties in southwest Nebraska.

**AGUILAR:** Ray Aguilar, District 35, Grand Island.

**BOSTELMAN:** On my right?

**J. CAVANAUGH:** John Cavanaugh, District 9, midtown Omaha.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**MOSER:** Mike Moser, District 22, it's Platte County and parts of Stanton County.

**BOSTELMAN:** To my left is committee legal counsel, Cyndi Lamm, and to my far right is committee clerk, Katie Bohlmeier. Our pages for the committee are Malcolm and Joseph. We thank you for being in here this afternoon and assisting us. With that, we will have a gubernatorial appointment first. That will be a reappointment of Mr. Scott Cassels into the Nebraska Game and Parks Commission. Please step forward.

**SCOTT CASSELS:** We good?

**BOSTELMAN:** Have the page give him the-- yeah. Good afternoon, Mr. Cassels.

**SCOTT CASSELS:** Hello.

**BOSTELMAN:** Please state and spell your name. Tell us a little bit about yourself. Tell us about your experience on Game and Parks Commission and any other information that you would like to share with us.

**SCOTT CASSELS:** Very good. Thank you, Mr. Chairman, Senators. Great to be here today. And my name is Scott Cassels, S-c-o-t-t C-a-s-s-e-l-s. A smidgeon about me is I've been married for thirty-six years to my wonderful wife, Carla, got two boys that are 29 and 28 and 5 grandkids, 3 black labs. So when I'm not working for Kiewit, that's where I spend my time, so-- and I have been an employee of the Kiewit companies for the last-- well, ever since 1976, so, a long time. And it's a pleasure being here. A-- a little bit about why I'd like to be reappointed, and that's why I'm here today, is I have thoroughly enjoyed being on this commission. I-- I'm an avid outdoorsman and so are my family, my grandkids, whether it's swimming or going to the park or hunting. We do all of that together. And this has-- commission has provided me an opportunity to serve. After being in the private sector for 40-plus years, serving in the public sector is a little bit different and it's quite enjoyable, and so-- and then to add value is another reason I want to be there. I've helped run a \$10 billion-a-year construction company for the last two-and-a-half decades. The ability to bring in my experience and-- and help our organization, the Game and Parks, grow and use our experience, that's what us commissioners especially enjoy. I've helped on big items like safety, HR, and strategic planning and-- and so on. And I think the experience of the commissioners collectively coming in to help our

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

commission is-- is-- is right-- quite solid. And then the other thing is, unlike other public-- other public agencies, this commission has kind of-- it's got to eat what they kill. We-- we do about 85 to 88 percent of our own-- spend about that much of our own money. We get a little bit less than 10 percent out of the General Fund, maybe a little more than 10 percent. So how we create products and services is how we get rewarded. And let me tell you, I believe today that we have the best-in-class services and parks and wildlife in the United States. We have great talent, great scientists supporting it. We have really strong commission supporting it. We have the Legislature behind us. We have a lot of really good things going. And-- and when-- when you have-- you get to work with best in class, it's an enjoyable time. But I also can tell you that we can't rest on our laurels because when you're on the top of the hill, you've got to work even harder. And-- and I'd like to stand for four more years because we have four or five things, in my opinion, that need a lot of work. One is-- I was talking to the senator a minute ago-- communication. We have to improve 360-degree communication from our constituents to our team and members of the commission, to the public, to everywhere, the Legislature. We've got to get better communication. And I think, if we do continue to improve, we're not broken, but we still have got room to improve. We've recently enacted some new legislation or new laws on-- on controlling the elk population. We gotta see if that gets-- if it works. We've heard loud and clear that we have challenges there. We've put in place things and we've got to measure it and see its success. There's no-- no reason to try something and not measure it and see if it's working. We have challenges at Lake McConaughy to continue its development and growth. We have to finish Venture Parks and we have to look at what we want to look like in the short term and long term strategically. So I hope to stay on the commission for all those reasons. I've got a lot of good friends there now and one of them which came here today, Commissioner Brandt. I'm glad-- great to see him here. But that's why I want to be on a commission, so I'm open for any questions.

**BOSTELMAN:** Thank you, Commissioner. Are there questions? Senator Hughes.

**HUGHES:** Thank you, Chairman Bostelman. Nice to see you again, Mr. Cassels, and wanted to thank you for your service to the state. Over-- over my tenure, we have had numerous discussions about large game animals in the state of Nebraska. So can you outline-- you mentioned it a little bit-- the changes that you're making, probably more specifically to the elk and deer populations, as the, you know,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

majority of my complaints come from landowners who are suffering damage, and what's being done to do a better job of controlling those herds?

**SCOTT CASSELS:** Sure. And-- and certainly the deer are-- are tough, but it's our elks, not-- the elk certainly likes those big pivots. They can just kind of hang in there forever. And-- and we were-- I don't want to say slow to react to that, but we were slow to learn enough about that at the commission level. And once we did, we started figuring out how to do it. Today we've put in four or five new things. One is we put in expanded number of tags we'll be giving out, including expanded tags to the landowners. We've got a really cool plan. It's called-- kind of call it "earnable," where our landowners, when they let people, other people out on their land and shoot a cow, after eight or ten cows, they get to get a bull tag that doesn't go towards their exemption. That's-- that's going to go really big because they-- most of our landowners like hunting to. Special depredation season, if-- if a landowner's got a problem, we've improved our internal communication that he can call and we can get up there and talk to him about how we remove a few elk. And, you know, as a-- as a rule, you know, you can take a few elk out. It doesn't always scare them off. You're aware of that. But if you do it enough times, eventually you bust them off the-- bust them off the roost. And so we think those as a minimum's going to help it. And we've got to measure. We've got about 3,000 elk in the state, 2,800-3000. We've got to figure out what the right number is that's socially acceptable for the farmers and for our hunters, because we have to serve both. And this year will really be a tell-- tell with our-- with our kill and then how much we got. We killed 7 percent more elk this year, 40 percent-- I forget the exact number-- a lot more and we'll be able to see what the impact from that was. So let's see what happens, and we'll get to talk at the end of the year on the results, because that's the best way to control population is through hunting and depredation.

**HUGHES:** So if I might follow up, I'd just like your personal opinion. or if you had any feedback on the special landowner deer-hunting permit, the three days early where a landowner can take-- can take his children hunting. Did you-- what-- what kind of feedback did you personally get from that, if any?

**SCOTT CASSELS:** Well, my 39-year-old son loved it, and so does that help? It does. Actually I've got reasonably good feedback. We just gotta make sure-- remember, the reason we started is we thought that gives the landowners a chance to get their animals. But then they've

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

got to be active in letting the other people hunt. And if they do their part, we'll do our part with early season. And so the feedback I got, including from my son, was, OK.

**HUGHES:** OK, just for your--

**SCOTT CASSELS:** And I know you're expanding it a little bit and--

**HUGHES:** Yeah, for your information the--

**SCOTT CASSELS:** --it's [INAUDIBLE]

**HUGHES:** --the feedback that I got was very positive--

**SCOTT CASSELS:** Oh, good.

**HUGHES:** --of the landowners, you know, being able to hunt with their kids and not worry about the rogue hunters and the, you know, looking over their shoulder. But the feedback I did get was, you know, I sure wish I could take my grandkids. So we've got legislation, and I think from what I hear, Game and Parks is OK--

**SCOTT CASSELS:** Yep, we are.

**HUGHES:** --or neutral on that--

**SCOTT CASSELS:** Um-hum.

**HUGHES:** --so I appreciate that.

**SCOTT CASSELS:** And my grandkids will take advantage of it this year, too, and-- and the other-- the feedback we got is it-- not just looking over your shoulder with the other hunters, but, you know, you don't know the land and you pay a certain price for having the land, it's nice to get the big buck or the big--

**HUGHES:** Yeah.

**SCOTT CASSELS:** --the big bull.

**HUGHES:** And the landowners that I did talk to said once they got to fill their tags, they were more than happy to open their land up to reduce numbers.

**SCOTT CASSELS:** Sure.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**HUGHES:** So I think it worked well, but--

**SCOTT CASSELS:** Yeah.

**HUGHES:** --time will tell well.

**SCOTT CASSELS:** Well, but, again, we have not-- I have not received any negative feedback, so-- and my kids are happy, so it's good.

**BOSTELMAN:** Senator Gragert.

**GRAGERT:** Thank you, Chairman. Thank you for your testimony. Yeah, I just have a quick question, you know, with-- with the hunting. And-- and what I continue to hear is the safety factor in hunting. More from my-- I'm hearing laws being broke. Are you-- would you be willing to-- if-- if I brought up something, to hire six more conservation officers or what-- how would you be receptive to that?

**SCOTT CASSELS:** Well, I'd try not to embarrass you with a hug that I gave you for doing that because I would be totally for it. We-- we continue to talk. In fact, I talked to our-- our chief today, Craig, about the cap. We're at 68 today and we could use another dozen in a heartbeat to-- to help control peak times, like we have in our parks, but also control the-- the hunting and the-- some stuff of challenges we have. And I think it was like three years ago we put a big ring to jail that was out, you know, shooting animals when they weren't supposed to be, and that takes a lot of work and there's no room for that. So I think 6 would be great, 12 would be even better.

**GRAGERT:** OK, thank you.

**BOSTELMAN:** How have the-- how many meetings do you have across-- during the year, how many meetings to attend or do you-- does the commission have?

**SCOTT CASSELS:** Quite-- quite a few. I mean, we have six, and one has to be held in Om-- in-- in Lincoln. And we have two strategic planning sessions and then we have two-- four committee meetings before each of our six sessions. And then last year, when we did our recruiting for the new director-- by the way, we're thrilled about our new leadership team with Director McCoy and Assistant Director Swenson. We held another three meetings plus submeetings, so it was quite busy.

**BOSTELMAN:** So how have you-- for public meetings that you have, for general public response, have you seen a change in attendance of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

those? Have you changed-- are you looking to change, a different, maybe different method? I know there was an online one, I think, for the big game or for the deer seasons. How do you see those-- have those work?

**SCOTT CASSELS:** And then, again, you were talking about meetings I attended. We have lots of the other type meetings. I think going virtual to-- with the big game meetings, they've got quite large crowds, so you always gotta make it available for people to come. But today's world, they've increased their crowds there. Our meeting count at Lake McConaughy, when we have them, it's increased. So I think back when I talked about communication, we have to better publicize it. We have nothing to hide. And if people want to learn about their parks and-- and how we're managing and their their wildlife, come on and give us your comments and feedback. But we try to move around the state all the time so we get the views of all the state, and so I think that better publication may be helpful [INAUDIBLE] and we're all for that.

**BOSTELMAN:** OK. Other questions from committee members? Seeing none, thank you for coming in today. I appreciate it.

**SCOTT CASSELS:** Thank you, Mr. Chairman. Thank you, Senator.

**BOSTELMAN:** Thank you, Mr. Commissioner. Are there any proponents for the reappointment of Commissioner Cassels to the Game and Parks? Anyone testify as a proponent in support? Any opposition? Seeing none, any neutral testifiers? Seeing none, that'll close our hearing for reappointment of-- of Mr. Cassels, Scott Cassels, to the Game and Parks Commission. Thank you for coming in today. With that, we will open our hearing on LB1081. A couple things: Don't know how many testifiers. I want to remind everybody we're going to do three minutes today. One thing that will help us as we go through these bills, if we have a lot of testifiers, to please move up so we're ready to go. It'll just help us move through the hearing a little bit quicker. But with that, Senator Bostar, welcome.

**BOSTAR:** Thank you. I don't think for the first bill that there is a significant number of testifiers. Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. It's a pleasure to be essentially your entire agenda today. I'm Eliot Bostar, for the record, that's E-l-i-o-t B-o-s-t-a-r. I represent Legislative District 29. I'm here to present LB1081, a bill that tasks the Department of Natural Resources with establishing procedures and criteria for

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

awarding grants to a municipality that utilizes more than 30 million gallons of water per day to be used for the design, construction, and implementation of additional water supply projects. Eligible projects shall include, but may not be limited to, cost for a water treatment plant, land acquisition, permitting, pumping, the construction of well fields, and transportation of water over 25 miles for the purpose of providing potable water to the municipality. LB1081 permits the department to award grants to a municipality based on criteria and procedures established by the department. This legislation appropriates \$200 million from federal funds for fiscal year 2021-22 to the Department of Natural Resources to fund these grant awards. The source of this federal funding is the Federal Coronavirus State Fiscal Recovery Fund, originating from the American Rescue Plan Act of 2021. Water infrastructure projects are ideally suited for use of ARPA funding. It is a one-time capital investment, and the cost of ongoing operations of the project can be sustained through rate revenues. You'll hear from testifiers behind me that securing a second water source for the city of Lincoln is one of the community's most pressing objectives. The Lincoln Transportation and Utilities Department currently provides water to 291,677 residents. This number is projected to grow to nearly 470,000 by 2060. The process of securing a second water source is likely to take years, but it is critical that we start now. The city of Lincoln requires both an increased quantity of water to support our growing population and critical infrastructure redundancy in the event of future disruption of our Platte River wellfield due to unforeseen circumstances such as a severe drought or flooding. As recently as 2019, the city of Lincoln experienced a near crisis when our Platte River well fields were threatened during the historic flooding that spring. A representative from the city of Lincoln will outline the specifics of how the city would allocate this funding and present cost estimates for connecting to eastern surface water resources. It's imperative that we take this opportunity to invest in the economic and public health of our future. We are unlikely to see such an infusion of federal funds again, and it's crucial that these resources be used where they can do the most good. I encourage you to advance LB1081, and I thank you for your time and attention. I'd be happy to answer any questions you have, also noting that there will be people following me.

**BOSTELMAN:** Thank you, Senator Bostar, for opening. Are there questions from committee members? Senator Hughes.

**HUGHES:** Yeah. So I-- I did not see it in the bill, but I'm assuming it's in part of the statute. The part of the synopsis that the legal



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

counsel gives us for this bill, it includes transportation of water over 25 miles to provide potable water to a municipality. If you encounter a landowner who does not wish to have this pipeline go across their property, is eminent domain an option?

**BOSTAR:** Well, you know, certainly those wouldn't be decisions that I'd be making, but I would say that my-- my wish would be that any landowner that's participating in an infrastructure project of that kind would be a willing participant and that we could-- we could get everyone on board. That being said, as far as eminent domain, I mean, fundamentally, there is a difference in eminent domain when its use is for a public entity versus a private entity, and my feelings about eminent domain differ based on that. And so this would be a public entity, municipality's water supply to supply water for its hundreds of thousands of residents, so that-- that is a genuine need, in my opinion.

**HUGHES:** OK, thank you.

**BOSTAR:** Thank you.

**BOSTELMAN:** Other questions? Do you know-- two questions or a couple things. Do you know how many or what cities would qualify for the 30 million gallons a day or more? And maybe someone behind you can-- knows the answer.

**BOSTAR:** Someone behind me may know for sure. You know, obviously Omaha would. Lincoln would. Beyond that, I can't be certain, sir.

**BOSTELMAN:** And part of it, and I-- you may have handed it in to our clerk or not. We had that handout for ARPA funding, for justification for that. So when you have that completed, make sure we-- we get that because that's something we need to look at on that. And if you have any other written material that you'd like to provide with that, that would be helpful as well.

**BOSTAR:** Absolutely.

**BOSTELMAN:** OK.

\_\_\_\_\_: Senator--

**BOSTELMAN:** Any other questions?

\_\_\_\_\_ : The copy of [INAUDIBLE] is just in the back  
[INAUDIBLE]

**BOSTELMAN:** OK. Seeing none, will you stay for closing?

**BOSTAR:** Yes, I will.

**BOSTELMAN:** OK, thank you very much.

**BOSTAR:** Thank you.

**BOSTELMAN:** Proponents for LB1081? Good afternoon,

**ELIZABETH ELLIOTT:** Good afternoon again, Chairman Bostelman and members of the Natural Resources Committee. I'm Elizabeth Elliott, E-l-i-z-a-b-e-t-h E-l-l-i-o-t-t, director of Lincoln Transportation and Utilities. I'm here today to testify in support of LB1081. First, I would like to thank Senator Bostar for introducing the bill and for his efforts to ensure that Nebraska residents and businesses have access to sustainable water resources both now and into the future. Last week, this committee heard a great deal about the importance of water to the state of Nebraska and how vital it is to continue to safeguard this precious natural resource for our communities. I've testified this session on a variety of water bills to emphasize the priority the city of Lincoln places on water infrastructure to support our growing state. The bill before you today does help Lincoln secure additional water supply and represents a critical and timely investment for the state of Nebraska. In 2019, Nebraska experienced the historic flooding along the Platte River. It jarred our community from a water reliability standpoint. This experience led us to accelerate our efforts to secure a second source of water supply. Lincoln is currently exploring two second-source water supply options: an interconnection with the Metropolitan Utilities District, also known as MUD, in Omaha; and an independent direct connection to the Missouri River. The cost of these two options ranges from about \$350 million upwards to \$800 million, thus the reason for the significant ARPA request in LB1081. Either solution will involve right-of-way and land acquisition, facility planning, design, permitting, and construction of a water transmission main. A second source of water supply will support our growing city, but it will also benefit the entire region by creating economic development opportunities along the corridor where the transmission main will be located, growing jobs, attracting businesses, and increasing revenue for the state. It will also help the smaller communities in the area, and they will be able

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

to connect to a regional water source. There's a number of water conservations that we've-- steps that we've taken over the years to try and preserve and be good water stewards. Ultimately, we think that this bill is a triple win that protects the vitality of our growing communities, secures water for our agricultural producers located along the river, and represents a smart and strategic investment for the state to grow jobs, economic opportunity, and the GDP for the entire state. There's a lot more in my testimony that I've handed out, so I'd be happy to answer any questions today, but we do ask for your support of LB1081.

**BOSTAR:** Thank you, Ms. Elliott. Are there questions? Senator Moser.

**MOSER:** The use of the water that the city is anticipating putting in this well for, is it for residential or commercial use?

**ELIZABETH ELLIOTT:** It would be for both. We believe, one, we do have our growing population, as Senator Bostar spoke on earlier. We expect over the next 20 years to be upwards of 400,000 individuals in the community. But we also have significant business coming into town and, if we do have this, you may re-- remember a few years ago there was a vehicle manufacturing company that wanted to come between Lincoln and Omaha. Water was an issue. This could be something for those types of businesses, as well [INAUDIBLE]

**MOSER:** But not for agricultural purposes, just-- you do allow watering residential yards?

**ELIZABETH ELLIOTT:** There-- there is that, and we do obviously have some community crop benefits here, but this would be primarily residential and commercial use.

**MOSER:** The groundwater in and around Lincoln isn't sufficient to pump water for your purposes?

**ELIZABETH ELLIOTT:** Definitely. This is the-- the Salt Creek Valley for a reason. The water here, around Lincoln specifically, is very salty. That's why our wells are in the Platte and near Ashland and why we transmit the lines here. We do-- this does also indirectly benefit the agricultural community because one of the concerns that we have is, if we want, one, run into a water scarcity issue, we could make a call on that river which would greatly impact the agricultural-- agricultural communities around here. So this, by providing us a second water

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

source, will minimize the need for any kind of wa-- call on the river that would impact the farmers.

**MOSER:** On the Platte River, you're talking about?

**ELIZABETH ELLIOTT:** That is correct.

**MOSER:** OK, thank you.

**BOSTELMAN:** Would you-- question I thought of, would you-- if-- if there's a new well field established or new water source established, would you have senior water rights for junior water? How does that work, do you know?

**ELIZABETH ELLIOTT:** It depends. So water rights-- I'm not a water law attorney, so I'm probably stepping a little outside my lane, but water rights really is about timing. So if there are individuals there-- MUD, for example, they're already in the Missouri River. Most likely, they would have senior water rights to us. However, if there's other states, communities, those types of things, if we're able to get to the Missouri River, if that's the option we go, first, we should be able to secure senior water rights to them.

**BOSTELMAN:** OK. Other questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you for being here, Ms. Elliott. So just to clarify on the water rights thing, you-- so currently Lincoln would have senior water rights to some agricultural production, is what you were saying, would-- in terms of putting a call on, if that's what you mean.

**ELIZABETH ELLIOTT:** It-- oh, yes, for the Platte River, yes, we do have senior water-- water rights to many of the agricultural communities and farmers around.

**J. CAVANAUGH:** And so you have rights to more water than you're currently using in the Platte?

**ELIZABETH ELLIOTT:** Yes. If needed, we could, yes.

**J. CAVANAUGH:** And that's what you mean when you say there's an ancillary benefit to agriculture?

**ELIZABETH ELLIOTT:** Yes. So what would happen, because we do have senior rights in the Platte River-- and I apologize, Chairman

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

Bostelman. We could, if we needed more water in a severe drought or some other issue, we could make a call using our priority seniority rights, and that would ultimately require the lower-priority rights, the farmers, some to have to stop irrigating and using the water.

**J. CAVANAUGH:** And in terms of the options you're pursuing, you mentioned the Platte-- or the-- I'm sorry, the Missouri River, and that would obviously require-- I mean, it says 25 miles. But from where-- I mean, Lincoln-- my drive from Omaha to Lincoln is 56 miles, so it's further than that to get to the Missouri River because--

**ELIZABETH ELLIOTT:** It-- that is correct. It would probably-- depending on where we actually connected, it could be upwards of 50 miles.

**J. CAVANAUGH:** In terms of, I think, Senator Hughes was asking about obtaining rights-of-way, are-- is there a corridor that is convenient that already has some land acquisitions, or would you have to go entirely get new acquisitions?

**ELIZABETH ELLIOTT:** Again, it kind of depends on where we would actually do that, but ultimately it would require new land acquisitions, or easements at least, within the right of way. The good thing, water is not a hazardous liquid, so more-- people are more open to the idea of having water. It is underground, so it's not something that's an eyesore once-- if they would see it in their yard or something like that. We do everything that we can to come to a-- a mutually agreeable agreement for that. We typically have pretty good luck with our water facilities.

**J. CAVANAUGH:** And if you were to connect to MUD, as you described, would that be to MUD's well field? I know we had Mr. Kubat out here a week or so ago discussing, I mean, he's got a well field just upriver from your well field and one downriver, I think. Would it be connecting to one of those or to some other MUD connection?

**ELIZABETH ELLIOTT:** Again, there's a couple different options that we could look at, and there's still some feasibility and capacity studies that MUD is currently doing, so we don't know exactly. We obviously don't want to connect into their Platte River source because that doesn't do us any good, having a second water source.

**J. CAVANAUGH:** Oh, OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**ELIZABETH ELLIOTT:** So we would want to connect somewhere along their system that's connected to the Missouri River to give us that second source that's not connected to the Platte.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Senator Gragert.

**GRAGERT:** Thank you, Chairman Bostelman. So connecting to the Missouri River, how many miles are you looking at of pipeline from Missouri River to Lincoln?

**ELIZABETH ELLIOTT:** It really depends on where we would actually be able to put a well. We would-- we would also have to build a treatment facility closer to the Missouri River, as well, so it depends.

**GRAGERT:** So that brings me to a question then. In that-- in that span, would there be the potential for domestic use on rural water, that rural water system, off of that outside line?

**ELIZABETH ELLIOTT:** You know, depending on how this system sets up, I think it's a little too early to say. I think there would be a lot of options, especially if it becomes a regional water supply. I don't know what options may be there then.

**GRAGERT:** Right now, your water just supplies Lincoln from-- from Ashland, your-- your pump's over here, your well's over there, right?

**ELIZABETH ELLIOTT:** That is correct, right now.

**GRAGERT:** OK, thank you.

**MOSER:** OK. Any further questions? Thank you for your testimony.

**ELIZABETH ELLIOTT:** Thank you.

**MOSER:** Are there other proponents, supporters that would like to testify? Maybe we should have "frequent testifier" cards--

**LASH CHAFFIN:** Yeah. [LAUGH]

**MOSER:** --sure--

**LASH CHAFFIN:** The-- although--

**MOSER:** --like a Sam's Club--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**LASH CHAFFIN:** --although the more you testify, the shorter time you get.

**MOSER:** Yeah, there you go.

**LASH CHAFFIN:** How's that? The-- the-- good afternoon, Senator Moser, the members of the Natural Resources Committee. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, and I'd like to offer-- I'm a staff member at the League of Nebraska Municipalities. I'd like to offer the League's support for this measure. And very quickly. 25 years ago, this would have seemed like science fiction that anybody would even talk about water transportation issues or-- or second sources, things like this. However, this is going to become a major issue across the state. You're already seeing-- ironically, the-- the two-- the two people on this committee with the most city government experience come from places where you regularly de-water, rather than, you know, try to bring water in. But in many places across the-- across the state, water-- source-- source water is becoming increasingly difficult to find. When I started with the League, a city water system as large as MUD, as small as Amherst, tested for 12 con-- possible contaminants. Now it's well into the hundreds, so it's becoming increasingly difficult to find water sources that meet EPA standards. And already little regionalization projects are starting to pop up all across the state. There's one in that Orleans/Alma area. There's another one, kind of that Cambridge to Arapaho, along there, and they do attempt to coordinate with, you know, any water users that they can along the way. This is just getting harder and harder to find water. And so I-- I think this is going to become a big issue over the years. And I think the definition, probably in response to Senator Hughes's question, I had to do the data collection when-- on the committee that worked to establish the groundwater management areas. OK, we did-- there were a lot of meetings prior to that. We-- we did a lot of information gathering on municipal water use, and I don't think anybody other than Lincoln or Omaha would hit the 30 million at this point. And so-- and then also the 25 miles is going to be a big barrier-- barrier as well. And-- and interesting, I worked with Senator Friesen on that-- on that project prior to that law going into-- to place when he was with-- with the NR-- on the NRD board, but-- so I think this is an important issue. And for what it's worth, I think cities across the state would like to see Lincoln dip their toe in first. Behind the scenes, the city of Lincoln has always been very generous with their engineering and operational expertise to any water system that asks. We use them for a lot of our training, and it's very common to see a city of Lincoln engineering spec posted on

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

somebody's bulletin board. And I think if, you know, Lincoln's with someone into this, they would try to embrace as many other water systems as they could and-- and I think a lot of people would like to see them dip their toe in the water before they have to at some point.

**MOSER:** OK, thank you. We have questions for the testifier? Seeing none, thank you for coming to testify today.

**LASH CHAFFIN:** Thank you.

**MOSER:** Other supporters for the bill? Are there opponents to the bill? Is there anybody here to testify in the neutral position? We have two letters of support that we received. Welcome to Natural Resources.

**JACK RUSSELL:** Thank you. Thank you, Senator. Good afternoon, members of the committee. Thank you for allowing me to speak here today. My name is Jack Russell. That's J-a-c-k R-u-s-s-e-l-l. I am the policy and research coordinator for the Lincoln Independent Business Association. Our organization represents around a thousand businesses in Lincoln and Lancaster County, and I'm here to deliver neutral testimony on their behalf regarding LB1081. And while it's not often we visit the Natural Resource Committee, we think this bill has positive potential for our community and the local businesses operating here, so we felt a brief testimony was warranted. LB1081 lays the foundation for adding an additional water source to the city of Lincoln. This is a very important issue for the community. Through conversations with local elected officials and city staff, our organization became more aware of this need. With potential impacts on Lincoln families, local businesses, and the community as a whole, it is smart to begin looking at infrastructure adjustments in order to add a second water source for the city. The urgency of this plan was accelerated during the 2019 floods, when Lincoln's water supply was put in jeopardy. This put the safety and security of our city in question, which demonstrated the need to seek an additional source. Our organization appreciates Senator Bostar's forward thinking, as well as willingness to engage in conversation on this process, because it does impact everyone in Lincoln. Accessing a second water source for Lincoln is a critical issue that will come with a hefty price tag. At this point. LIBA is not prepared to support any one particular solution to this issue, but recognizes this bill as a first and critical step toward identifying the best solution and constructing it. LB1021 represents a forward-thinking policy that addresses a need that is important to the city of Lincoln. And though LIBA cannot yet support any specific plan or bill for a second water source, we do



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

want to thank Senator Bostar for bringing this need to the Legislature's attention. I also want to thank the committee again for allowing me to speak here today, and I'd be happy to try and answer any questions that you may have.

**MOSER:** Questions for our testifier? Seeing none, thank you very much--

**JACK RUSSELL:** Thank you.

**MOSER:** --for your testimony. Anybody else in the neutral position? I guess not. Then, Senator Bostar, would you like to close, please?

**BOSTAR:** Thank you, members of the committee, for your time and attention. This is something that's extremely important to Lincoln and its-- and its future. There are some projections that say that within the next ten years Lincoln could be facing water restrictions based on how much we can get from our well field and the Platte alone. So this sort of projected and undertaking will take a significant amount of time, so it's-- it's important that we-- we start now. And I'd be happy to answer any other questions. I think the only other thing I'll mention is that there is a lot of discussion happening about making-- whichever option is utilized, turning that into a regional water supply system for-- to-- to benefit a greater area of southeast Nebraska. Again, there's a lot of options on the table. One singular option has not been fully identified, but knowing that we will need to follow one of those options is a certainty. And with that, I'd be happy to answer any other questions.

**MOSER:** OK. Any questions for Senator Bostar? Yes, Senator Gragert.

**GRAGERT:** Thank you, Vice Chair. So with that in mind, I was just wondering where you came up with the \$200 million. So those al-- two alternatives, is that where you're coming up with \$200 million? Or would there be a option to come up with some money to do a-- has a study been done on exactly, you know, from Missouri River to Lincoln and how much that would cost?

**BOSTAR:** So that's-- that's a great question. There-- you know, with anything, with any project like this, you know, there isn't one study, right? There are pipeline studies. There are capacity studies for MUD. There are water quality studies. I know, for example, you know, when MUD interconnect, we would have to evaluate, you know, if I understand correctly, the corrosiveness of the water within that supply and how it would interact with pipes in the Lincoln system. So there are

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

countless studies, as there should be when trying to, you know, undertake a project of this magnitude. So there are things that have been done, and I would be happy to get you information about exactly, you know, which-- which steps have already been taken. The \$200 million number. Again, my understanding, from those who have been working on this and planning for it, is that within the timeframe allotted for the expenditure of ARPA funds, that is the amount of money that could be spent on this project in that amount of time.

**GRAGERT:** Thank you.

**BOSTAR:** Thank you.

**MOSER:** Other questions for Senator Bostar? Thank you very much for coming in to testify today about your bill. That will close the hearing on LB1081. Now we'll open the hearing on LB1186. Welcome to Natural Resources.

**BOSTAR:** It's good to see you again.

**MOSER:** Yes.

**BOSTAR:** All right. Good afternoon, Vice Chair Moser and members of the Natural Resource Committee. I'm Eliot Bostar, that's E-l-i-o-t B-o-s-t-a-r, and I represent Legislative District 29. I'm here to present LB1186, a bill to define industry terminology, create decommissioning and reclamation requirements for hazardous liquid pipelines, and establish the Abandoned Pipeline Cash Fund. This cash fund will ensure that the dollars necessary to meet private and public landowner reclamation costs after possible pipeline abandonment will be paid by the owner of the pipeline and not by impacted landowners, a county, or the state. Existing pipeline reclamation Statute 76-3301 not cover carbon dioxide pipelines, which represent a rapidly growing industry in our state. Current law regarding reclamation only applies to reclamation of land shortly after the pipeline is constructed, meaning the pipeline company is required to restore the land that they just disrupted during the construction process. Section 3, subsection (5) of the legislation would expand the law to require reclamation of land after the pipeline is abandoned or is no longer in use. Nebraska landowners know what's best for their land and should have reclamation options following construction and after the abandonment of pipelines. This is particularly important when one considers that a pipeline may exist on property against the wishes of a property owner since pipeline developers are afforded eminent domain authority under

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

Nebraska statute. Section 8 of the legislation recognizes that a number of post-pipeline-abandonment reclamation options exist and provides landowners with the right to choose which reclamation option makes the most sense for their land. Current law fails to protect landowners property rights by allowing corporations operating pipelines to keep permanent lifetime easements in place on landowners' property, even after a pipeline experiences a cessation of operation. Section 8, subsection (3) of this legislation corrects that and provides for the return of easement rights after the conclusion of the intended use period. This change protects the private property of Nebraskans from permanent easements that are no longer being utilized for their initial intended purpose. Section 10 of LB1186 creates the Abandoned Pipeline Cash Fund to ensure that funds necessary to meet private and public landowner reclamation costs after pipeline abandonment will be paid by the owner of the pipeline, rather than placing that burden on landowners, local political subdivisions, or the state of Nebraska. These decommissioning requirements are similar to policies in place for other energy and infrastructure development. LB1186 was brought forward to create clear definitions of industry terminology, fill a number of existing gaps in current statute, and provide Nebraska landowners with necessary protections to restore their land once pipeline operations had ceased. And I would encourage you to support landowner rights and advance LB1186 and thank you again for your time and be happy to answer any questions.

**MOSER:** Questions for Senator Bostar? Senator Hughes.

**HUGHES:** Thank you, Vice Chairman Moser. Senator Bostar, aren't all pipelines covered by federal regulation when they are no longer in use or abandoned currently?

**BOSTAR:** I believe there are federal regulations that cover pipelines when they are no longer in use. I don't think that they produce the same result that this statute, this proposed legislation would. I don't think, for example, that there's a federal regulation that would say that if the pipeline is no longer in use, the landowner has the option to have it removed from their property at a cost not borne by them, for example.

**HUGHES:** I guess I-- I would-- that's a debatable point, I guess, un-- until we find a-- a definite-- definite answer to that. So if-- I guess I'm thinking about abandoned railroads.

**BOSTAR:** Yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**HUGHES:** Sometimes the-- the rail line does revert back to the original landowner. Sometimes it does not. Sometimes it's a permanent easement. So that-- I guess, when-- when the pipeline went through, if that agreement was signed, you know, that should be the-- the governing document. I don't know that the state of Nebraska can go back and change those laws, is that-- would that would be a fair statement, or change-- change the agreement?

**BOSTAR:** Yeah, I think that's-- I think that's fair to say. And that would be, you know, certainly a question of as standards in law change, you know, how our previously existing contract's handled. And my understanding is that most of the time they essentially-- I mean, it depends, but they essentially receive, you know, a grandfathered in status of they-- they complied with the statutes at the time that they were written--

**HUGHES:** Right.

**BOSTAR:** --so that would be my understanding.

**HUGHES:** OK, very good. Thank you.

**MOSER:** Other questions for Senator Bostar?OK, seeing none, thank you for your testimony.

**BOSTAR:** Thank you. And I--

**MOSER:** Are there--

**BOSTAR:** I have a bill shortly in Revenue, so if I am not here, I waive my closing, but I will absolutely try to be here.

**MOSER:** OK, thank you.

**BOSTAR:** Thank you.

**MOSER:** Yeah, if you can make it back, you're welcome. Proponents? Supporters?

**KENNETH WINSTON:** Good afternoon, Senator Moser--

**MOSER:** Welcome.

**KENNETH WINSTON:** --and members of the Natural Resources Committee. My name is Kenneth Winston, K-e-n-n-e-t-h W-i-n-s-t-o-n, and I'm appearing this afternoon on behalf of the Bold Alliance in support of

LB1186. LB1186 is most fundamentally a property rights protection bill. The main reason that-- that we support LB1186 is because it provides protections for landowners. And most of what I will say Senator Bostar already touched on, but I just want to reiterate. The first point is the fact that we want to recognize that landowners know best what's for-- what's best for their land and ought to be able to control what happens after the inevitable abandonment of pipelines. Reclamation decisions should be made by landowners, not by pipeline companies. Secondly, it recognizes that there's a number of different options for reclamation, which include filling pipelines with concrete or other fill under roadways and bridges and railways to prevent coll-- collapse, segmentation and plugging to prevent drainage, and partial or full removal of the pipeline from the landowner's property. It also creates a cash fund, as Senator Bostar indicated, and the idea of this is so that the pipeline owner-- so that the landowner doesn't get stuck with the costs of reclamation and because of the fact that the pipeline operator has a better capacity to pay for these kinds of things. This demi-- decommissioning requirement, as Senator Bostar indicated, is similar to provisions that are-- that are currently in law in Nebraska related to wind development and also oil-- oil and gas projects. And, as Senator Bostar indicated, in those instances, the owners are completely open to negotiate the agreements with-- with the developers. It also provides for a reversion of the-- of the easement to the-- to the landowners after the pipeline has been abandoned or is otherwise no longer in use, thereby protecting the private property from permanent easements that are no longer being used for their intended purpose. And there's several changes to current law. The reversion is one of them. The fund is one of them. But in addition, it amends the current Pipeline Act, which currently only applies to-- to petroleum products to also include carbon dioxide pipelines. It also applies to reclamation after the pipeline is abandoned, as opposed to just after it's constructed. And abandonment is much more likely to happen because of the fact that pipelines are aging and motor vehicle manufacturers are transitioning towards-- towards electric vehicles. In addition, we believe that this is good public policy. Pipeline Rec-- Reclamation Act efforts will create jobs for Nebraskans. Pipeline companies supported the original Reclamation Act when that was passed in 2011. And we believe that if pipeline companies wanted to support their-- their intention to be good neighbors to-- to landowners, we believe they should support LB1186, and we respectfully request that LB1186 be advanced for consideration by the entire Legislature. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**MOSER:** OK. Questions? Questions for the testifiers-- testifier? OK, seeing none, thank you for your testimony.

**KENNETH WINSTON:** Thank you. And-- and I can provide citations to all the materials that-- that I testified about if-- if that-- if that's desired, so.

**MOSER:** You can provide anything that you'd like to the clerk and she'll be sure to give it out to the members.

**KENNETH WINSTON:** Sure.

**MOSER:** Yes, Senator Gragert.

**GRAGERT:** Can-- can I get a quick question-- question?

**KENNETH WINSTON:** Sure.

**MOSER:** Go ahead.

**GRAGERT:** Thank you. Is it sometimes more advantageous to an-- to abandon a pipeline and replace it with new--

**KENNETH WINSTON:** It could be.

**GRAGERT:** --or repair?

**KENNETH WINSTON:** Well, I'm not-- I'm not going to pretend to have any expertise in that area.

**GRAGERT:** OK.

**KENNETH WINSTON:** But-- but the-- the whole thrust of this bill is just to make sure that landowners have options when a pipeline is abandoned.

**GRAGERT:** Thank you.

**KENNETH WINSTON:** Thank you, Senator.

**MOSER:** Thank you for your testimony. More proponents? Welcome to Natural Resources.

**BRIAN JORDE:** Happy to be here. My name is Brian Jorde, B-r-i-a-n J-o-r-d-e. I am from Omaha. I'm a lawyer with the Domina Law Group in Omaha. For the last 15 years, I've represented hundreds of landowners

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

in Nebraska and across this country related specifically to pipelines, easements, abandonment issues, postconstruction, reclamation, etcetera. You're going to hear from some of my clients here today on this issue. Most notably, in Nebraska, I represented all of the landowners in opposition to the Keystone XL Pipeline, so I've read hundreds and hundreds of easements more than I care to remember. And the easement agreement, which you're all familiar with, is the agreement that lays out the rights, responsibilities, what a landowner can and can't do when a pipeline runs across, under, or through their property, is not the sufficient and the end-all, be-all the way to deal with these issues. When a pipeline company has eminent domain power, the idea of voluntary negotiation, in terms of dealing with an easement on the front end prior to construction, is a misnomer. There is no such thing as voluntary negotiation because the pipeline companies, as they've told countless of my clients, either you agree or we will take your property via eminent domain. And the eminent domain condemnation process does not allow a landowner to renegotiate terms, strengthen terms, or do anything related to costs of abandonment, removal, or reclamation in the case of abandonment. And the condemnation process is simply on price: How much are you going to be paid for this inconvenience? Every pipeline that goes across landowners property is an inconvenience. It takes away constitutional rights, their property rights. It's-- prevents them from building, constructing, sometimes running irrigation lines if they're farmers. Sometimes they cannot even move heavy or overly heavy equipment across these pipelines. And so the trigger here, which is important, is abandonment. So once it's abandoned and there's no longer a need for this and the company has so told us, put the power back into the hands of the landowners to say please remove this off my property so it is no longer a burden to the end of time, because these easements are perpetual and forever even though there's a finite life in the project, so it makes no sense to allow them to be there without the responsibility to remove what essentially are a series of hundreds of miles of underground fuel storage tanks, which if you were a local owner of the gas station on the corner, you would have to remove those once you decommissioned that project or that building and business was no longer in use. So I fully support this project. It simply puts the power back in the hands of the landowners after the company has specifically said, we do not need this anymore, and they should remove it at the landowner's option and then the easement rights should revert back so the landowner is made whole and doesn't have a property that has partial property rights attached to it. If there are any questions?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**MOSER:** Senator Gragert.

**GRAGERT:** Thank you, Vice Chair. I would like to just ask, OK, if the-- if the area was taken by eminent domain versus somebody that sold their property, how's that going to be different to-- does the pipeline have to come back when-- and also take care of the abandonment on the individual that willingly gave up their land for a certain [INAUDIBLE]

**BRIAN JORDE:** So if I understand your question, Senator, obviously, to Senator Hughes's point earlier, if it is a contract that was negotiated, regardless of whatever our perspectives on that are, then they have the lawful right to negotiate no abandonment or-- or abandonment. I can tell you that the boilerplate language-- language that, again, if there's eminent domain powers, the pipeline companies have no incentive to negotiate away this language because they don't have to, says remove or abandon in place. And always it's the abandon in place because it's dollars, right? You all understand that. So this doesn't take away the right for a landowner to enter into that very contract that says, basically, I don't care, you can leave it there, that's fine. We're just saying, for the landowners that actually would like it removed, knowing they have no negotiating power on the front end to do that, for all pipelines coming forward-- it wouldn't undo any prior contracts or easements that-- that have specified this, but for anyone who's going forward, let's just put the power back into the hands of the landowners, who are the backbones of this infrastructure project and without them you couldn't even have a pipeline. That's all we're asking, you know, so it doesn't really take-- it takes no rights away from the pipeline company. They still have eminent domain. They can still lay the pipeline. It's just when you, pipeline company, have said you don't need it, it's no longer economically viable, let's not have it rot underground and prevent them from building, expanding their operations, etcetera.

**GRAGERT:** All right. Thank you.

**BRIAN JORDE:** Appreciate the question.

**MOSER:** Other questions? How would you anticipate the landowner would define when it's been abandoned or not, you know, not intended to be used? Couldn't that be kind of a vague clause?

**BRIAN JORDE:** Yes. And the bill lays that-- the bill lays that out in terms of the language we're proposing. So, for instance, if the



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

pipeline company has stopped utilizing the pipeline for a certain period of time and it's-- they're simply done, they're not using it, that would be one way that would be an abandonment. They could do a decommissioning and-- and let the state know we are no longer using this pipeline. It happens frequently, but we're not saying that should be left up to the landowner. I agree that would be a mess. There's-- there's some specific language in here, and Mr. Blackburn, who follows me, is going to walk through that, on how we propose you consider defining what abandonment means, because clearly that has to be defined. We can't leave that. I mean, the landowner can't just one day say, you've abandoned it, right? That's not fair to the pipeline company. But it's-- it's spelled out in-- in the bill, I think, in sufficient manner.

**MOSER:** OK, thank you.

**BRIAN JORDE:** Yep.

**MOSER:** Other questions? Senator Gragert.

**GRAGERT:** Well, that brings up another question then. What if the project never gets started? How long-- how long a time does that-- do they have to start the project before-- I don't know. It can't be abandoned because it hasn't been started, but with this--

**BRIAN JORDE:** Right, good point.

**GRAGERT:** --land acquisition?

**BRIAN JORDE:** So from experience, I can tell you in-- related to the TransCanada major oil pipeline, they had to start construction of the project within two years or they would lose the eminent domain rights and power that they were vested. So that's for the eminent domain right trigger. What we're proposing here is, I believe it's a-- is it a two-year, Paul? I think it's a-- it's-- I think we're proposing a two-year, so if they have the ability to do something and they're not doing it, it's not starting but the-- the threat of-- of condemnation is there, which affects the ability to sell the ground, right, it affects the marketability, it affects the operations, the planning, how they might treat the property, because, well, is it coming, is it not, are you going to tear up my field or are you not, we're saying, if you have the power and you haven't at least made a good-faith effort to start constructions within two years, then you are de facto abandoning that project because you haven't got it going. Now the--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

the amount of time obviously is debatable. That's what we suggested. I think there should be some amount of time.

**MOSER:** Thank you.

**BRIAN JORDE:** Yeah.

**MOSER:** OK. Any other questions? Seeing none, thank you for your testimony.

**BRIAN JORDE:** Yep. Thank you very much.

**MOSER:** Other proponents?

**PAUL BLACKBURN:** Senator Moser, members of the committee, good afternoon. My name is Paul, P-a-u-l, Blackburn, B-l-a-c-k-b-u-r-n, and I've been asked by Bold Alliance to testify in support of LB1186. I've been engaged in crude oil pipeline abandonment proceedings in Minnesota, and I'm familiar with pipeline abandonment regulation in Iowa and Canada, as well as the Federal Pipeline Safety Act and its regulations related to pipeline decommissioning process. LB1186 proposes to regulate abandoned pipelines and abandoned pipeline easements. And again, there are two different property rights here. The easement is a distinct real estate property right with a-- but the right to the steel in the ground is-- that's a personal property right and they need-- need to be addressed separately. The state of Nebraska is not preempted by federal law from addressing pipeline abandonment, and the reason for that is that federal law expressly states that hazardous liquid pipeline facilities that are used or intended to be used in transporting hazardous liquid are regulated. But if a pipeline owner no longer has an intention to use a pipeline to regu-- to move hazardous liquids through it anymore, it's no longer a hazardous liquid pipeline. It's just simply scrap steel in the ground. It's-- you know, federal regulations require either use or the intention to use it for hazardous liquid transportation. Other states recognizing this have said that-- have regulated abandoned pipelines. Iowa section-- Iowa Code Section 479B.32.2. grants landowners the right to seek easement reversion of a-- of a non-use of a pipeline under a number of different conditions, including some of the ones that you've discussed, such as non-- nonuse and non-- failure to start construction. But also, Section 479B.32.4. grants landowners the right to require the pipeline company to remove or-- any pipe or pipeline facility remaining on the property. So this is existing Iowa law. It just simply, again, gives the landowners the right there to have some

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

control over their property after the pipeline's been foisted on them. The Minnesota Public Utility Commission has posed two conditions to Enbridge's new Line 3 crude oil pipeline, and the first one is called the Landowner's Choice Program. And Enbridge Pipeline Company, which owns Platte through-- through Nebraska, voluntarily proposed this program, and it gives, again, the landowners the choice of what happens when they remove old Line 3. But the commission also has included a condition that established a trust fund for the new pipeline, and that docket was just opened. No parties contested in these conditions because federal law simply does not regulate scrap pipe; it regulates operating pipelines. It should be noted the government of Canada has established this pipeline trust fund for both the pipelines that run through Nebraska, for the Canadian portion of those, and you look at the dollar figures there: 268 for the-- for the Keystone-- \$268 million for the Keystone Pipeline and \$99.3 million for the-- for the Express, which is the upstream part of the-- of the Platte Pipeline. And finally, unless the state of Nebraska actually imposes this condition, the-- the companies, pipeline companies, oil pipeline companies can't collect money from their customers for these services for-- for abandonment. And both Keystone, TC Energy, and Enbridge have booked zero dollars for future pipeline abandonment costs in Nebraska. That's straight out of their filings with FERC. Anyway, I'd be happy to answer any questions you might have about this complex topic.

**MOSER:** Questions for the testifier? Senator Gragert.

**GRAGERT:** Thank you, Vice Chair. You a lawyer?

**PAUL BLACKBURN:** I am.

**GRAGERT:** So if a company acquires the land for a specific purpose and that purpose doesn't go through, can they sell? Can they sell that, all that land they've acquired, to another company?

**PAUL BLACKBURN:** Well, that's really an easement question. I'm not an easement attorney. And Mr. Jorde could probably answer than I . My understanding is that they-- they can transfer to another company, to another-- depending on the easement terms, they can transfer to another entity. Some easements may restrict their ability to do that. Some easements, they say you can only use it for like one oil pipeline, you know, and maybe even for a term of years. But many easements just say that they have a right to it, and so we've seen some abandoned pipelines get converted into communications conduits,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

for example, and that's a good use for an abandoned pipeline, but not all of them are going to be suitable for that. So it depends on the easement terms, basically, I think.

**GRAGERT:** OK, once again, I guess, maybe there's somebody here who's more-- you were saying, but I'm talking before they even get anything laid in. Can a company that-- that was able to acquire that land, can they sell that to another company?

**PAUL BLACKBURN:** It---

**GRAGERT:** And-- and it's individual easements all the way through there, understand.

**PAUL BLACKBURN:** My understanding is that most of these easements allow the transfer to a different company.

**GRAGERT:** OK, thank you.

**MOSER:** Other questions? I just have one question. How do you value the-- or how do you determine the value of what the pipeline company has to put into escrow to satisfy the bill that you're supporting?

**PAUL BLACKBURN:** Well, the bill proposes the system that they use in Canada, and that system is to have the pipeline company develop a plan for abandonment and then the pipeline company does its own estimate for what the cost of that abandonment would be, just the same way that a pipeline company, when it's developing a pipeline, needs to figure out how much the easements are going to cost and how are they going to do the construction.

**MOSER:** So you would make them put that total sum into escrow?

**PAUL BLACKBURN:** Over time, yes, that-- they would have to put the total amount that they estimate over time. And in Canada, that's what they do. They estimate the total amount and they're paying over time into that. That means that they pass it on to their customers and the cost to their customers, which are larger oil companies, over time is not-- is not-- is not going to break the bank.

**MOSER:** But the large oil companies are selling oil to consumers, so the consumers ultimately pay for that cost.

**PAUL BLACKBURN:** That would be correct. At the same time, the-- if the consumers don't pay for it, then the landowners would have mitigation

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

and abandonment costs that they would be foisted on them without any choice. I mean, if they're going to have their property taken by eminent domain, consumers can at least help pay to reclaim their property after the pipeline's abandoned.

**MOSER:** OK. Other questions? Thank you very much. Appreciate your testimony. Other support for this bill?. If you're going to testify, please come forward and take a seat in the front of the room to save a little time. Welcome.

**JEANNE CRUMLY:** Welcome. My name's Jeanne Crumly, J-e-a-n-n-e C-r-u-m-l-y. I'm a landowner in Holt County, Nebraska. I have a great five-minute talk and I find out it's three, so please-- please excuse my edited version here. But I'd like to thank-- I'd like to thank you for allowing the opportunity to speak in favor of LB1186. In preparing for my talk today, I looked at the responsibilities of this committee. They're extensive, but they seem to narrow--sit around two things: use and protection. My family is a seventh-generation landowner in Holt County. Like you, we're in the business of use and protection, use for economic viability and protection for the next generation. LB1186 is a bill to help determine terms of use and to assure protection. We use the land using a-- wise use of land takes a three-point look at land. We look at lessons learned from history, we look at opportunities that exist today, and we project what the future may require. Embracing this three-part look at use, ag sectors remain the backbone of Nebraska's economy. What we need from Legislatures is important rules and regulations based on lessons from history, wise use in the current day, and vision for the future. Even a quick look in Nebraska finds a wide range of fails on this front. We have the Ordnance Plant in Grand Island, we've got nitrate problems in Holt County, and we've got the ethanol problems in Mead. Future projects need to better project what total costs are from installation to decommissioning and-- and consider those, make-- have considerations from restoration, needs to allow landowner voice in that process. LB1186 does all of this. As new opportunities present themselves, we need to better project those total costs. Too often, industry jumps on an opportunity, but fails to factor the whole cost of a project. A pipeline commission must also at some point be decommissioned. Reclamation calculations must be factored across the life of that project. Landowners have to have a large say in that decision-making process. Reclamation costs must be factored in. LB1186 establishes the Abandoned Pipeline Cash Fund, assuring that the reclamation costs be borne by the owner of the pipeline, not by the landowner and not by the state. Pipeline construction requires a comprehensive system of easements. As with

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

wind and solar farm, pipeline easement should revert back to the landowners at the end of the project. Fairness seems to demand this. LB1186 allows for it. Energy production is changing. Renewable and sustainable energy production is a challenge moving forward, yet today much 20th-century legislation, a broad menu of tax incentives, still prioritizes fossil fuel industry and it-- which is-- is unsustainable in the long run. This proposed legislation creates a more level playing field among all technologies. So what are the elements important to the landowner in this?

**MOSER:** Well, could you conclude your remarks? The red light is on. And to be fair to all testifiers--

**JEANNE CRUMLY:** OK. Yeah, I--

**MOSER:** --you need to be--

**JEANNE CRUMLY:** Yeah. Reversion--

**MOSER:** --kind of cut to the chase.

**JEANNE CRUMLY:** Yeah. Reversion back to the landowner at the end of the easement, reclamation costs being covered, the money being held in-- for that cover, and this protects the landowner in the state of Nebraska. Thank you.

**MOSER:** All right. Thank you. Hang on. We might have questions.

**JEANNE CRUMLY:** Oh.

**MOSER:** Questions for the testifier? I got-- have just one question.

**JEANNE CRUMLY:** Sure.

**MOSER:** Does your property have a pipeline on it or is it on the pathway of a proposed pipeline?

**JEANNE CRUMLY:** It's possibly on the pathway. It was on the Keystone Pipeline. So even though I'm just a layperson, I seem to be pretty well versed or I feel like I'm pretty well versed in the-- a lot-- a lot of the anxiety that landowners feel with this. And so this is like a breath of fresh air to landowners because we feel like it gives at least one tool in a pretty empty package that we have.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**MOSER:** Well, we consider everybody's testimony to be equal, regardless of what their interest in the bill is. So we appreciate you coming today.

**JEANNE CRUMLY:** OK, thank you.

**MOSER:** Thank you. Other supporters of the bill? Oh, did she spell her name too? I don't know if I was-- OK-- paying attention here. Welcome to Natural Resources.

**JENNI HARRINGTON:** Thank you. Thank you for letting me speak today. My name is Jenni Harrington, J-e-n-n-i H-a-r-r-i-n-g-t-o-n. I am a resident of York County, live on a family-- family farm that we're sixth generation, just really interested in LB1186 and want to speak to why I feel it's very positive for Nebraska and landowners in our state. Our important work continues to protect our land and water, and this bill is an important step in doing that. We were kind of caught off guard with the Keystone 1 Pipeline that I know went through Seward County and through having the proposed Keystone route-- Is there a problem?

**MOSER:** You're fine.

**JENNI HARRINGTON:** OK.

**MOSER:** She accidentally left the red light on.

**JENNI HARRINGTON:** OK, I didn't notice.

**MOSER:** That's all right. Just ignore that.

**JENNI HARRINGTON:** OK. OK, that's fine-- has just brought our family into studying what these pipelines are for landowners and the state of Nebraska. Certainly, we're very concerned about our water and what a hazardous pipeline would do-- could possibly do to water underneath our farm and in our area. So, you know, pipelines running through our state that carry hazardous material are something kind of new for Nebraska. Certainly, coming from Canada down to Texas was a kind of a new thing that people were, you know, like, wow, you know, that doesn't make a lot of sense, we're just a thoroughfare for the pipeline, so what do we need to do, what do we need to know about? So we really educated ourselves. I worked at the local level to get some local provisions passed, to no avail. Lots of Keystone XL people would show up to our meetings, and I think it was really hard for our local commissioners to work through that, having all the pressure from the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

pipeline company and also wanting to do-- you know, protect our-- our county. So the other thing is, when you talk about the federal guidelines, it's very confusing. So the states really need to work to protect the property rights of their land and water and the landowners. And maybe we're going to work from the ground up and we're going to educate the federal government where their policies and laws are lax on this. And, my goodness, all we're talking about is water today. Why would we not want to do everything we could to, you know, protect the water and do the things that LB1186 could get done? And am I red? I mean-- OK.

**MOSER:** All right. Well, if you're finished here--

**JENNI HARRINGTON:** I-- I think I'm finished, but thank you very much.

**MOSER:** OK, hang on. We'll see if there are questions.

**JENNI HARRINGTON:** Yes, please, ask me any questions of things that we went through at the county level.

**MOSER:** I would ask you the one question--

**JENNI HARRINGTON:** OK.

**MOSER:** --that-- that I asked the other testifier. Is your property in the potential way or involved in potential pipelines?

**JENNI HARRINGTON:** It-- it was. And now we are being asked by--

**MOSER:** Which one was--

**JENNI HARRINGTON:** Well, Keystone XL, and now we have the carbon dioxide people knocking at our door. So that was kind of interesting. I'm like, oh, my gosh, we, you know, worked through all this. We're busy farmers. I have a nursery and landscaping company and, you know, it's a lot. We feel like we're kind of left out there by ourselves.

**MOSER:** OK.

**JENNI HARRINGTON:** So we need help.

**MOSER:** All right, thank you very much.

**JENNI HARRINGTON:** OK.



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**MOSER:** More proponent testimony. If you're going to testify, please come forward and occupy the front row, it saves a little bit of time. Chairman Bostelman has returned, so I'll yield control of the meeting back to the Chairman.

**BOSTELMAN:** Thank you, and good afternoon. Welcome.

**SHANNON GRAVES:** Good afternoon. My name is Shannon Graves, S-h-a-n-n-o-n, G-r-a-v, as in "victor," -e-s. I'm from 512 Road 23, Bradshaw, Nebraska, 68319. I think we can all agree that if we didn't learn a lesson from our own and others' mistakes, we would not have made it far beyond the primordial ooze. Not long after TransCanada approached my husband and I about building the Keystone XL Pipeline on our property within a football field's length of my five-generation home, I might add, I read about an oil spill that happened in Wilmington, California, in March of 2014. Up to 3,000 gallons spilled from an idled pipeline. After owning that pipeline for 13 years, Phillips 66 and the city of Wilmington discovered the hard way-- hard way that the pipe still had contained oil. An Inside Climate News article from June 2014 stated, and I quote: Similar hazards exist in nearly any neighborhood where hazardous liquid pipelines lay dormant. Shouldn't we learn the lesson? Thank you.

**BOSTELMAN:** Thank you for your testimony. Is it Ms. Graves? Am I in the right spot? OK, Ms. Graves, thank you. All right. Questions from committee? Seeing none, thank you for coming in. Next proponent, please. Good afternoon

**MEGHAN HAMMOND:** Hi, Chairman. Hi, Committee. My name is Meghan Hammond. I'm sorry, I'm nervous. It's spelled M-e-g-h-a-n H-a-m-m-o-n-d. My name's Meghan Hammond and I'm a sixth-generation farmer from York County, Nebraska. You just heard from my aunt, Jenni Harrington, and my neighbor, Shannon Graves. My husband and I moved home to the farm with my parents in 2010. The last decade, my family and I have spent a lot of time learning about pipelines and property rights. My parents were on the first round of the Keystone XL and then again on the reroute. LB1186 would be a step in the right direction to help protect landowners of this state. We tried hard to work with local commissioners and zoning boards to get commonsense regulations and got nowhere. We've got 11 pages of wind zoning regulations in York County and not one sentence about pipelines. I mean, local control failed us, and we tried hard for 17 months to keep the pipeline away from schools, from hospitals, from well field, protected areas. Pipeline companies come in and do what they want. It's time that they

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

play by our rules. LB1186 is reasonable. If these pipeline companies had our best interests, like they say they do, we wouldn't be here today. My husband and I just purchased our first quarter of ground two years ago. We are now on the proposed route of Sum-- Summit Carbon pipeline. Based on proven history of previous natural gas and Keystone contracts. I'm sure this contract will have no mention as to what happens when they're done with it. We don't get our easement back and we're stuck with their junk pipe. I don't know about you, but it sounds reasonable to me that they pick up after themselves. We have two kids, ages two and four, and every day we practice cleaning up toys. It seems very basic. You get the toy out, you put it back. But I'm sure that rule isn't in the best interest of pipeline companies' bottom line or profit margins. Why would I want to pass on a rusty pipe to my kids or the next generation? This is the cost of doing business. Lastly, we're one of the highest property-paying-tax states in the nation. I think we can afford to have the laws that represent and protect property taxpayers. It's time we do what's best and right for landowners and citizens of the state instead of for-profit pipeline companies.

**BOSTELMAN:** OK, thank you, Ms. Hammond. Any questions from committee members? Seeing none, thank you for coming in today and testimony. Next proponent, please.

**JANE KLEEB:** Hi.

**BOSTELMAN:** Good afternoon.

**JANE KLEEB:** Good afternoon, Committee. Good afternoon, Chairman. My name is Jane Kleeb, K-l-e-e-b, live in Hastings, Nebraska, here representing the group that I founded, the Bold Alliance. We're here in support of Senator Bostar's bill, LB1186, for some basic, simple reasons, first and foremost, something that nobody has talked about yet, that this is a jobs bill. The same amount of jobs that are required to put in a pipe are the amount of jobs that it would take to remove the pipe. I know my friend Ron Kaminski with the Laborers couldn't be here today, but I know the Laborers' Union would not pass up an opportunity to get more pipeline jobs within their union. Second, this is about property rights. The reason Bold Nebraska and myself personally got involved in the fight against the Keystone XL was not about climate change, was first and foremost and always will be about protecting landowners' property rights. Wind and solar don't have eminent domain. If they did, you could bet I would fight, tooth and nail, those projects as well. I think at the very least, our state

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

owes farmers and ranchers the opportunity to choose if a pipeline is removed from their land, not at their cost, but at the person-- the company that makes billions of dollars transporting oil, gas or, potentially, carbon dioxide. It is absolutely mind-boggling, and I know that the pipeline companies will come up behind us in opposition, that anybody would be opposed to this basic function. Land easements can be transferred, and often are transferred, or sold when pipeline companies are finished. And I work not only in Nebraska, but across this country, with landowners. I have spent over a decade in-- across living room-- in living rooms, across dining-room tables, really holding the hands of landowners who are terrified about the prospect of either a proposed pipeline or a pipeline that has been abandoned in their property and that they have no rights to get that pipe out of their ground, and then, even if it gets out of their ground, that the pipeline company still owns that easement. This bill accomplishes both of those things. It gives landowners the choice if a pipeline is removed or not, and it makes sure that the easement goes back into the rightful owners, the landowners.

**BOSTELMAN:** Thank you, Ms. Kleeb. Are there questions from the committee members? Seeing none, thank you for coming in--

**JANE KLEEB:** Thank you.

**BOSTELMAN:** --and testifying today.

**JANE KLEEB:** I'll take questions from the pipeline companies after.

**BOSTELMAN:** Good afternoon, Mr. Davis.

**AL DAVIS:** Good afternoon, Senator Bostelman, members of the Natural Resources Committee. My name is Al Davis, A-l D-a-v-i-s, and I'm the registered lobbyist for the Nebraska chapter of the Sierra Club. We want to thank Senator Bostar for bringing LB1186 and are enthusiastic supporters of the changes proposed in the bill to update our obsolete underground pipeline rules and regulations. The bill really centers largely around the issue of property rights and the rights of landowners across the state to be in the driver's seat when pipelines are being de--decommissioned. In addition, there is much discussion in Nebraska about the construction of compressed carbon dioxide, which will be transported via pipelines and underground storage in other states. This new technology would not be covered by the existing rules with which other pipeline companies must comply. Compressed CO2 pipelines must follow the same rules as those associated with oil and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

gas. This nation no longer tolerates the abandonment of profit-making enterprises without restoration of the site to a preexisting condition. We've seen counties imposing decommissioning fees on wind turbines, states imposing cleanup obligations on mining enterprises, and removal of hazardous materials from old structures when they are demolished or remodeled. Society certainly shouldn't bear the costs associated with restoration and cleanup of a profit-making enterprise when that enterprise ceases, a landowner should never have to bear the cost of pipeline remediation to restore his land. This bill corrects that. Also, the designation of a cleanup fee-- fund is welcome. Lastly, an abandoned pipeline or pipeline route should not retain a permanent easement on the property of farmers and ranchers when they no longer are using the pipeline for its designated purpose. These easements result in a reduced value of the underlying property. Since the original purpose of this easement is no longer valid, then the easement should also cease being valid and enforceable. As I stated at the beginning of my testimony, the bill is focused on the rights of property owners who are so often inconvenienced by pipelines. We urge the committee to move the bill to the floor as a priority of this committee. Thank you.

**BOSTELMAN:** Thank you, Mr. Davis.

**AL DAVIS:** And I wanted to say one-- just one other thing, as coming from a ranch community. Some years ago, we had an underground fuel tank we didn't know was there, and it was very wet year and that popped up in my backyard, breaking a lot of water lines and several other things in the process. This can happen with pipelines. If you get the right conditions, they can pop out of the ground, so certainly it should not be the responsibility of the landowner to have to clean up a mess that was made by some profit-making company who inconvenienced them in the first place. Thank you.

**BOSTELMAN:** OK. Thank you, Mr. Davis. Are there questions from committee members? Seeing none, thank you for your testimony today.

**AL DAVIS:** Thank you.

**BOSTELMAN:** Next proponent, please. There any other proponents for LB1186? Seeing none, would anyone like to testify as an opponent to LB1186? If you are going to testify, please come up and fill the seats up front so we can move through the testimonies. Good afternoon. Welcome.

**JILL BECKER:** Good afternoon, Senator Bostelman and members of the committee. My name is Jill Becker, spelled J-i-l-l B-e-c-k-e-r, and I am a registered lobbyist here on behalf of Black Hills Energy in opposition to LB1186. Just wanted to point to a couple of concerns that we have with the green copy of the bill. And in talking with Senator Bostar, it is not his intent to pull natural gas into the provisions of the bill. But as I expressed to him, I was a little bit concerned with some of the definitions that are in the bill. And specifically, the bill uses the term-- I'm gonna turn this-- "hazardous liquid." And for us as an industry, that term "hazardous liquid," "hazardous materials," have some very real consequences due to their classification at the federal level and there-- you know, depending what we're talking about, there are very strict requirements on what that has to do. And so I just am concerned that using that term in this bill would create some confusion because it is not the same as what we are talking about on the federal level, so that is a concern that we would have. Another thing I would mention, we have-- we've heard a lot of talk about reclamation. I would just like to say that for us, as an organization, we work really hard in working with our landowners to restore their property back to the way it was, hopefully, in cases, even better than it was. And certainly we don't get that right every single time, the first time, but it's incredibly important to us. And for us as an organization, I think it's important for you to also remember that as a-- as a utility company that is bringing a product to communities that want it, it is incredibly important to be able to work with landowners along the way to that community, and hopefully we can do that, right? Hopefully, those landowners don't feel like some of the landowners that were testifying here today, But frankly, we've gotta be able to serve customers. And so I would hope that-- and I'm sure eminent domain is not the first option for most entities. That's not really what we want to do. And as far as I know, we have not-- Black Hills Energy has not had to use it in our state. We work very closely with those landowners to make sure that we can come to an agreement; and in cases where we can't, there have been times when we've had to switch our route. We've just had to. With that, I would be happy to-- oh, finally, I would mention, there was some discussion, as I mentioned, about reclamation clauses. Those are usually in our easement agreements with landowners. So depending on what we're dealing with, if you think about where we serve, we serve customers in the city of Lincoln all the way through western Nebraska, and so what those easement requirements are-- what those easements are going to require for reclamation is going to be a little bit different just because of the kind of property that we're working

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

with. So with that, I'll be happy to answer any questions that the committee might have.

**BOSTELMAN:** Thank you, Ms. Becker. Are there questions from committee members? The question I have-- I went through the bill as I'm through it quickly. So I see hazardous liquid, hazardous liquids, but would you also have an objection to the Hazardous Liquid Pipeline Reclamation Act? That's on page 5--

**JILL BECKER:** OK.

**BOSTELMAN:** --lines 20 and 21.

**JILL BECKER:** So the difficulty that I had with this, Senator, is that in talking with our environ-- environmental group, there are several entities that would perhaps have reclamation requirements for us. So if we were in a wetlands area, there would already be some kind of requirements that we'd have to meet; if we were in a city, the city might have some very specific reclamation requirements. So I am not sure how the new language would then match up with anything that we would already have to comply with, and a lot of times those are really driven by a federal law and then enforced by our state agencies, so--

**BOSTELMAN:** OK.

**JILL BECKER:** --that would be my concern, is that I'm just not sure how closely they'd marry up.

**BOSTELMAN:** OK. No, that's fine. I'm just asking. Any other questions? Seeing none, thank you--

**JILL BECKER:** Thank you.

**BOSTELMAN:** --for your testimony. Anyone else to testify as opponent? Good afternoon.

**DAWN CALDWELL:** Good afternoon, Chairman Bostleman and committee members. My name is Dawn Caldwell, C-a-w-n C-a-l-d-w-e-l-l. I have the honor of serving as the executive director at Renewable Fuels Nebraska, the statewide trade association for the ethanol industry. We are a resource to encourage public policy that ensures the growth and expansion of the renewable fuels industry in our state. Nebraska's 24 ethanol plants are supported by 48 RFN associate members who provide consultation, production inputs, and opportunities such as CCS. According to nameplate registration-- registration, the ethanol plants

can produce 2.6 billion gallons of ethanol annually, ranking Nebraska second nationally following only Iowa. We are proud that Nebraska's ethanol industry contributes some \$5 billion to our state economy on an annual basis. Words stated in my opening strike at the heart of my reason for being here today speaking in opposition to LB1186. I reiterate: Our association encourages and promotes public policy that ensures the growth and expansion of the renewable fuels industry in Nebraska. The entirety of society has been tasked with the challenge of decreasing the amount of carbon being released into the atmosphere, and the United States has chosen to be a leading example. Agriculture and all value-added aspects of agriculture, such as ethanol production in Nebraska, have a tremendous opportunity to participate in revenue-generating, cutting-edge CCS projects that will contribute significantly to that global goal-- goal of reducing carbon emissions. Geologic carbon sequestration, once fully underway, will be a tremendous asset not only to the environment, but, most importantly, to Nebraskans, including the entire ethanol value chain of the farmers that-- that sell the grain to the ethanol plants, the ethanol plants themselves, and fuel retailers and consumers. There are a couple of Nebraska's 24 ethanol plants who may be fortunate to reside atop geological formations suitable for carbon sequestration such that they would be able to place an injection well on property owned by the ethanol plant. Most of the plants in Nebraska do not have that luxury and would have to pipe their carbon in order to participate in carbon sequestration or find a site suitable for injection. Carbon dioxide pipelines, like all pipelines, are already subject to federal regulation for abandonment and decommissioning through the Pipeline and Hazardous Materials Safety Administration. LB1186 creates an extra judicial-- judicial process at the county level for filing of affidavits and disputes regarding a pipeline that a property owner may determine is abandoned. This creates an unnecessary burden on both the operator and future property owners who already have access to judicial process to address those concerns. Senators, I ask you to allow for our ethanol plants and the farmers they serve to capitalize on the opportunity of carbon sequestration. Capturing a near-pure CO2 stream on the production side of ethanol is the single-most impactful option available to reach carbon neutrality targets. Additional regulations laid out in LB1186 would drive CCS companies away from our state and once again leave Nebraska omitted from an opportunity for revenue generation that uniquely benefits the environment and Nebraska's economy. Thank you--

**BOSTELMAN:** Thank--

**DAWN CALDWELL:** --and I'll answer questions.

**BOSTELMAN:** Thank you, Ms. Caldwell. Are there questions? Senator Gragert.

**GRAGERT:** Thank you, Chairman. Thank you for your testimony. Is the product from the ethanol plant hazardous?

**DAWN CALDWELL:** Much of-- it-- there's a lot of it going into the air right now, so we're burning it off or it's going into the air. And quite honestly, you and I exhale CO2 every time we breathe, so it is-- it is considered hazardous in terms of climate change and global warming. It is not hazardous unless there is too much of it in one small space at one time, and our atmosphere is having trouble acclimating to that. So the more-- as we know, the more traditional petroleum we replace with clean burning fuels such as ethanol and the more carbon that we can sequester or remove from the atmosphere, the better off we're going to be.

**GRAGERT:** In transporting it in the pipeline, is it considered hazardous?

**DAWN CALDWELL:** I suppose it has to be labeled that. There will be somebody smarter than me that can answer that for sure, but my understanding is that it is not hazardous.

**GRAGERT:** Thank you.

**BOSTELMAN:** Seeing no other questions, thank you for your testimony.

**DAWN CALDWELL:** You're welcome. Thank you, guys.

**BOSTELMAN:** Next opponent, please. Good afternoon.

**BRUCE RIEKER:** Good afternoon. Chairman Bostelman, members of the committee, my name is Bruce Rieker; it's B-r-u-c-e R-i-e-k-e-r. I'm the vice president of government relations for Farm Bureau, testifying in opposition to LB1186, which would amend the Oil Pipeline Reclamation Act. We appreciate Senator Bostar's concern for the environment. However-- however, we are concerned with the di-- with the disruption this proposal will cause to one of our most valuable resources, our soil. Our soil is a dynamic, symbiotic ecosystem composed of physical minerals, chemical interactions between elements, and the biological organisms that live and work in the soil. This proposal will disrupt the capacity of the soil to function as a



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

dynamic, living ecosystem that nourishes plants, feeds animals and people, and improves the environment. Disruption of the soil in the way called for in this proposal could set back this precious ecosystem years, if not decades, by destroying organic matter, water infiltration rates, and soil biological life. Our soil is critical-- critical to human health. It is the foundation of our food system. The environment will suffer from the reclamation called for in this proposal. The likelihood of erosion will increase . Food production, environmental protection, water resilience, clean water, water-holding capacity, and carbon storage will all take a step backward. The increased management required to regenerate our soil is concerning. The cost and time it will take producers to return their soil to the condition it exists today are problematic. Controlling weeds, decreased effectiveness of herbicide chemistry, crop rotations, nutrient and manure management, irrigation efficiency will all take more time and effort to restore the soil to the condition as it exists today. As stewards of the land, we believe the changes called for would cause more harm than good to our valuable economic-- ec-- ecosystem. We are also concerned with the jurisdictional issues raised by this measure. Pipelines are already regulated by the federal Pipeline and Hazardous Materials Safety Administration. In addition, pa-- it-- passage of LB1186 would require pipeline carrier to comply with any post-decommissioning reclamation requirements adopted by the local government entities having jurisdiction over an abandoned pipeline, and I think previous testifiers in opposition have talked about that. This regulatory framework would lead to a piecemeal approach with different standards in different jurisdictions, causing duplication and confusion. Accordingly, we ask you to not advance LB1186, and I'll try to answer any questions if you have them.

**BOSTELMAN:** Thank you, Mr. Rieker. Are there any questions from committee members? Senator Gragert.

**GRAGERT:** In all the-- that you de-- described as far as getting the land back to where it-- where it would be, is that-- are you referring to the abandonment of the-- of the pipeline--

**BRUCE RIEKER:** Yeah.

**GRAGERT:** --to dig it up or--

**BRUCE RIEKER:** If they dig it up, I'm-- yes, I'm referring to if they dig the pipeline up and it disrupts the soil, that's when it would disrupt the ecosystem. If it's left in the ground? No.

**GRAGERT:** So is that the same way when you install the pipeline?

**BRUCE RIEKER:** Yes.

**GRAGERT:** Hmm?

**BRUCE RIEKER:** Yes, it is.

**GRAGERT:** OK. Thank you.

**BRUCE RIEKER:** As a matter of fact, I used the arguments of the opponents to a lot of pipelines to put my testimony together.

**GRAGERT:** Thank you.

**BOSTELMAN:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you, Mr. Rieker, for being here. I apologize. I-- you're the first person I get to question, so-- because I had to be in another committee. And maybe I missed all the other testimony, but my reading of this, the removal is-- is voluntary for the landowner.

**BRUCE RIEKER:** Yes.

**J. CAVANAUGH:** So your testimony said that land-- I mean, you're Farm Bureau, protecting the rights of the landowner and the farmers. I don't understand why you wouldn't be in favor of the landowner being able to make that determination on their own land. This is just an option that would be available to them. It wouldn't be mandatory for those landowners, right?

**BRUCE RIEKER:** Well, not included in-- OK, voluntary and private property rights, we absolutely support those. To have people that-- we-- we believe that there's a greater harm to the ecosystem by digging it out if people made that choice. We understand the private property rights. In extension to this, we also have seen where there have been pipelines that-- I know there was a discussion earlier about who determines if a pipeline is abandoned. Sometimes they've been abandoned in technical terms under the Federal Trade Commission. However, there was probably a future use intended for them. We have concerns with how this legislation-- I mean, I-- I've deviated from your question.

**J. CAVANAUGH:** Keep going.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**BRUCE RIEKER:** But in my experience with dealing with some natural gas lines that were abandoned, such as by Magellan and others, for a while they were technically abandoned. Their permit to transport natural gas or things like that were abandoned. However, those lines get repurposed. And so we believe that there would-- this legislation would also cause some con-- confusion in that realm. But my comments about soil health would only be in the cases where that-- that pipeline would be extracted.

**J. CAVANAUGH:** And your points-- I mean, your point is well taken. I understand that there's a cost-benefit analysis that everybody undertakes in terms of this sort of endeavor, right?

**BRUCE RIEKER:** Um-hum.

**J. CAVANAUGH:** And we do that-- as Senator Gragert pointed out, it would be an analysis when you're deciding to put in a pipeline, as well, should be considered, the-- the environmental impact and the harm to the soil and to the landowner. I guess your-- your question-- your point about it being some are not currently in use but not necessarily abandoned-- and again, I missed the original testimony. You're the first person I'm talking to, so--

**BRUCE RIEKER:** Nope. No, that's fine.

**J. CAVANAUGH:** --I apologize if this is not a question for you or-- or not a question you can answer. But under this bill, would there be a standard at which-- a point at which a pipeline is determined abandoned and the landowner would just come in with a backhoe and rip it out themselves, or are we talking about the pipeline operator? At what point does it become a problem that a pipeline that has a potential future use is getting dug out, I guess, under this bill?

**BRUCE RIEKER:** Yeah. I would say that there is no clear determinant in this proposal as to how that determination is made or how it would be removed or who chooses, who-- who decides that, so that the lack of clarity in that area is also a cause of concern. But--

**J. CAVANAUGH:** Do you think Farm Bureau would be OK with this bill giving landowners the right to make the determination about the disposition of their own land if that clarity was put in there then?

**BRUCE RIEKER:** We would be much more amenable. I mean, we'll work with you on that definition. But, you know, that-- that is a strong concern

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

for us. And so we-- if-- if we could arrive at consensus on what that might be, I would take it back to our leadership, yeah.

**J. CAVANAUGH:** And-- sorry, I'm thinking on my feet here, as you're the first person--

**BRUCE RIEKER:** Me too. [LAUGHTER]

**J. CAVANAUGH:** No, I appreciate it. So in terms of the current situation, a pipeline comes in, gets buried on somebody's land, and then just stays there in perpetuity.

**BRUCE RIEKER:** Um-hum.

**J. CAVANAUGH:** And they may never have any conception of whether that pipeline is still in use. I mean, there's no external appearance of a pipeline being used or not used.

**BRUCE RIEKER:** Right.

**J. CAVANAUGH:** OK.

**BRUCE RIEKER:** At least that's my understanding, and my parents have a few pipelines running underneath their land, so.

**J. CAVANAUGH:** And they wouldn't know to call up whatever-- I don't even know what the pipe-- the natural gas company is anymore. It used to be Enron, but--

**BRUCE RIEKER:** Only if it blew up, they know--

**J. CAVANAUGH:** Yeah, if it blew up.

**BRUCE RIEKER:** --then they would know, yeah.

**J. CAVANAUGH:** So they wouldn't even know to call and say, hey, can we take out that pipeline, right, I mean, unless they just called periodically and said, is that pipeline still in use?

**BRUCE RIEKER:** Yeah, they wouldn't know.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Seeing no other questions, thank you for your testimony.

**BRUCE RIEKER:** You're welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 16, 2022  
Rough Draft

**BOSTELMAN:** Next opponent, please. Anyone else like to testify as an opponent to LB1186? Seeing none, anyone like to testify in the neutral capacity? Seeing none, Senator Bostar, you're welcome to come up and close. I will say position comments for the hearing, for the record. There's 23 proponents, 9 opponents, and 1 in neutral.

\_\_\_\_\_ : He waived.

**BOSTELMAN:** Oh, he waived? Oh, sorry. Senator Bostar waives closing, so that will end our hearing on LB1186.