

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BOSTELMAN:** Okay, everyone, we'll get started today. Welcome to the Natural Resource Committee. I'm Senator Bruce Bostelman from Brainard, representing the 23rd Legislative District, and I serve as Chair of this committee. Today the committee will be taking up gubernatorial, gubernatorial appointments to several boards and commissions in the order that's posted outside of the hearing room. If you are testifying today, please fill out one of the green testifier sheets that are on the table at the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet, the green sheet, to the page or to the committee clerk. When you come up to testify, please speak clearly into the microphone and loudly. Tell us your name and spell your first and last name to ensure we get an accurate record. We will begin each hearing today with the appointees' opening statement to introduce themselves to the committee and any other information they'd like to share, followed by any questions the committee members may have of the appointee. And finally, we will hear from anyone present wishing to speak as a proponent, opponent, or neutral testimony on that appointment. We will be using a three-minute light system for all testifiers and as a proponent, opponent or neutral. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one-minute remaining and the red light indicates you need to wrap up your final thought and stop. Questions from committee may follow. If you're the one that's coming in for the appointment, you're not limited to the three minutes, so you're limited to your opening that you may have to share with us. Also, committee members may come and go during the hearing. This is just part of the process as senators may have bills to introduce in other committees. Just a reminder, to please silence or turn off your cell phones and that verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to be asked to leave the hearing. The committee members with us today will introduce themselves, starting on my left.

**SLAMA:** Julie Slama, District 1, representing Otoe, Pawnee, Richardson, Nemaha, and Johnson Counties.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**HUGHES:** Jana Hughes, District 24, Seward, York, Polk and a little bit of Butler County.

**BOSTELMAN:** On my far right.

**JACOBSON:** I'm Senator Mike Jacobson, District 42. I represent Lincoln County and four counties north, Logan, McPherson, Hooker, Thomas, and then also three-fourths of Perkins County.

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

**MOSER:** Mike Moser. I represent Platte County and parts of Stanton County.

**BOSTELMAN:** Senator Moser is the Vice Chair of the committee as well. To my left is committee legal counsel, Cyndi Lamm, and to my far right is committee clerk, Laurie Vollertsen. Our pages for the committee today are Trent Kadavy and Landon Sunde. And with that I will open the hearing for our first to, the director, Thomas E. Riley for Director of Department of Natural Resources, Director Riley. Good afternoon.

**TOM RILEY:** Good afternoon and thank you, Chairman Bostelman and senators, for having me here today. My name is Tom Riley, T-o-m R-i-l-e-y, and I'm excited to be here and provide to you a little background about myself and share with you that today at the confirmation hearing. So I'm a lifelong Nebraskan. I'm from Crete, Nebraska, born and raised there. After high school I went to the University of Nebraska- Lincoln. I received my bachelor and master's degrees in civil engineering there, an emphasis in water resource management. I am a registered professional civil engineer in the state of Nebraska, and I'm in good standing with the engineering board. I live near Eagle, Nebraska with my wife and we were fortunate enough to have three boys. Our oldest, Logan, he works for the Union Pacific Railroad, just received his MBA from UNO. My second one, Clay is a senior at UNO. He's studying architectural engineering, and our youngest, Evan, is studying at UNO in computer science. And what I really hope for them is to have the same opportunity that I hope for all of our young kids and professionals to grow a family, live here and have a great career in Nebraska. So following my master's degree,

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

I was able to get employment here in Nebraska. My early career, I dealt mainly with the restoration of soil and water and remediation of that. Then, about two decades, decades ago, I worked with some of my closest friends and colleagues, three of those to launch the Flatwater Group here in Lincoln, Water Resources, an engineering consulting firm. The last few years, I've had the privilege of serving as director at Department of Natural Resources, and the department has a devoted and outstanding team of professionals that they've been just a pleasure to work with for me. My time in natural resources has really reinforced my belief that Nebraska and her water is just a linchpin for today in the future. Last year, the Legislature, many of you were part of that, asked the department to take on several important water initiatives in our state. The department's been diligently working on a number of them, the Surface Water Infrastructure Fund, the Jedi and Star Wars and flood control components and the Perkins County Canal. Along with all of our other duties, which include water planning, floodplain management, dam safety, surface water administration and groundwater, well registration and mapping. It's really an exciting time to be a water resources professional in Nebraska for anyone in the business, and I look forward to leading the department to implement the important water vision that the Governor and the Legislature has laid out for us. As director, I'll continue to guide the Department in its mission of safeguarding Nebraska's most precious water resource through sound partnerships, cooperation, science-based decision making, and all these things will help grow Nebraska. The Department's and my vision is dedicated to the safe and proper management of the state's water for the future benefit of all Nebraskans. We'll continue to serve up quality water data and mapping information so that the best decisions can be made. We all know that collecting and properly using data and information leads us to those quality decisions. I'm hopeful that more and more Nebraskans will become interested and passionate about Nebraska's water as the department reaches out to engage the public, public really at all levels. Nebraska is blessed with having an incredible amount of water resources, and I'm looking forward to continuing our work with all Nebraskans to manage our water for today and for tomorrow. Thanks for having me here today, and I'd be happy to take any comments that the committee may have.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BOSTELMAN:** Thank you, Director Riley. Are there questions from the committee members? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you, Director Riley for being here and of course, for your willingness to continue on serving. So you pointed out you mentioned about the big projects in, you've been in three years you said.

**TOM RILEY:** Just a little over two.

**J. CAVANAUGH:** OK. I couldn't remember if we confirmed you in my first year or not. These new projects, have they, I guess, grown, the staffing and the purview of the department since you've been there?

**TOM RILEY:** So we've been able to take those on with our staff as it sits. We have brought on an additional senior level staff member within our organizational structure. So we're really trying to accommodate these projects with our existing staff.

**J. CAVANAUGH:** Do you foresee that if we do build the canal and reservoir out in, I can't remember, it's not Perkins County, but we call it the Perkins county canal.

**TOM RILEY:** Keith.

**J. CAVANAUGH:** Keith County, thank you. Somebody knows. Would that project require or would that be outside contractors or would that be internal hire?

**TOM RILEY:** So as we look forward to kind of the management component of that project, we'd probably engage with some folks to help us with that and not internalize all those management, day-to-day management components.

**J. CAVANAUGH:** So, well, we don't need to talk about it. I appreciate the, you know, the times we've worked together. You said you entertain comments, so I'm going to comment. I appreciate that you're always willing to answer all my questions, no matter how tough questions I've asked you over the past two years and I really appreciate that and I appreciate working with you. So I'm very happy been reappointed. So

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

I'm going to ask you one question outside the box that we didn't talk about before, groundwater. Are we-- I'm hearing more and more about issues with the groundwater in the state of Nebraska in terms of, you know, nitrates and things like that. Are we thinking about any novel approaches? Are there any things we should be looking at and if anything the department's doing?

**TOM RILEY:** Well, I'm, I'm the water quantity guy and the department's role is to manage surface water and interface with the NRDs and our groundwater partners as well. But I will say that our surface water needs are really important to our groundwater recharge when we talk about things like the Perkins County Canal, and we need that water to keep coming into the state because it does provide a recharge for those systems and it does have a direct impact on groundwater. So to that extent, we're always looking at those relationships and how surface water and groundwater do interface and the importance for the whole picture in managing those resources.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Other questions, committee? Senator Jacobson.

**JACOBSON:** I just have one, more of a comment. I appreciate Senator Cavanaugh's questions, and I think as you well know, I, I appreciate going on the tour last year to look at the potential project for the Perkins County Canal. Obviously, listening to the Governor this morning sounds like where he's looking at funding to get it built. I think we're probably closer to when this gets built and obviously that's going to be a big load on your department to continue to oversee that. I think you've got great background and good connections with Colorado. You letting them know the lay of the land, I think you're in a great position to move forward. So first of all, thank you for accepting the appointment and staying in the saddle. You're going to have a lot of workload as we move forward here. And that I think that was my concern, too, as to how you're going to balance the workload and it sounds like you've got a plan there. So, I appreciate that and I appreciate the work you've done so far and I'm looking forward to working with you in the future. Thank you.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**TOM RILEY:** Thank you.

**BOSTELMAN:** Kind of follow along with what Senator Cavanaugh said. How many employees work in DNR?

**TOM RILEY:** So DNR, we have the ability to have, do 117 within our work chart. We're a little over 100 right now.

**BOSTELMAN:** And do you have the different divisions within and what would those be?

**TOM RILEY:** We do. And I mentioned those before. Some of our ongoing pieces. We have a water planning division, dam safety. So Department's in charge of overseeing a number of dams, including our high hazard dams that we have to inspect every year. So that's manned by a number of professional engineers. We have our Flood Plain Management group. Senator, you know them well from our state hazard or late state floodplain hazard mitigation plan that we completed just this past year. But we also have our surface water management team that manages our day-to-day operations for our prior appropriation, our senior and juniors. And we also take on some groundwater components where we are the agency that registers and tracks all of our groundwater well registrations and also provides and we turn-out water mapping for that as well.

**BOSTELMAN:** And I thank you for that. I think that's, I appreciate that because sometimes everybody doesn't understand what DNR, what your function is, what you do, where your work is at. We confuse it with maybe other opportunities of groundwater or whatever it might be in projects like that. So I think it's helpful to know exactly where it is, what, what your department, what you're working on. I see you're and you're working on your PhD in biological systems engineering. And how does that play into your role that you have now?

**TOM RILEY:** Well, that's a, that's a, I'm kind of halfway there and continue to try and trump along that. And honestly, only kids are going to have a master's degree pretty soon, so I've got to have something on them. Plus, it's a real, plus it's a real interest of

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

mine to continue to keep on top of where today's research and science is in water. And so that helps me do that as well.

**BOSTELMAN:** So other than maybe, I think it's LB723 that we have coming up, is there anything that you'd like to share with the committee? Tell us of something that changes or something different that you see the department may need legislative work on or directions or we can help with.

**TOM RILEY:** So, you know, water, water law is complicated in this state and other states. So sometimes it's not good to add additional, additional words in legislation. I think we have most of the tools we need right now, but we always need to keep our eye on changes happening. And certainly when we look to our friends in states to the west, which are in such dire need of water, we need to make sure that we are protecting our own water resources and using them for the state as wisely as we can for the state's growth and our folks here. But I think in general, we're in pretty good shape.

**BOSTELMAN:** OK. Thank you. Any other questions from committee members? Seeing none, thank you, Director, Director Riley, for your willingness to continue to serve and for the work that you've done so far. Thank you.

**TOM RILEY:** Yeah, and thank you for having me.

**BOSTELMAN:** I would ask if anyone like to testify as a proponent for the appointment or reappointment of Director Riley to Department of Natural Resources. Any proponents? For the record, welcome Senator Brandt to the committee. Good afternoon.

**ANDREW DUNKLEY:** Good afternoon, Mr. Chairman. My name is Andrew Dunkley, A-n-d-r-e-w D-u-n-k-l-e-y. I am here with the Nebraska Farm Bureau and I am, you will notice on the the sheet being handed out, I am not our President, Mark McHargue. Unfortunately, he is, he is ill and had to go home, but we wanted to come and testify. I'm testifying today on behalf of the Ag Leader working group as well as Nebraska Farm Bureau. You all will remember the Ag Leader working group, which includes Nebraska Cattlemen, Nebraska Corn Growers, Nebraska Soybean

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

Association, Nebraska Pork Producers, Nebraska Wheat Growers, Renewable Fuels, and I'm sure I'm forgetting one, but wanted to, to come up here and testify on behalf of Director Riley. We've had some really great communications with the director, and he's been nothing but professional and responsive to, to all of our needs. As you can imagine, water is an extraordinary asset to agriculture in Nebraska, and Director Riley has been an asset on its behalf. And we really appreciate his efforts and look forward to continuing to work with him. So I'm open for any questions.

**BOSTELMAN:** Thank you, Andrew. Are there any questions from committee members? Seeing none, thank you for your testimony.

**ANDREW DUNKLEY:** Thank you.

**BOSTELMAN:** Are there any other proponents for the reappointment of Director Riley to the Natural Resource, Resources? Any other proponents? Seeing none, anyone like to testify in opposition? Anyone in opposition? Seeing none, anyone like to testify in the neutral capacity? Seeing none, that will close our hearing the gubernatorial appointment for Director Tom Riley. Thank you. Our next, our next appointment I think is, so now we'll be moving on to the Natural Resources Commission, Dennis Strauch. Good afternoon.

**DENNIS STRAUCH:** Good afternoon, Chairman Bostelman and members of the Natural Resource Committee. I have served two terms on the Natural Resource commission representing irrigation districts throughout the state.

**BOSTELMAN:** You need to state and spell your name.

**DENNIS STRAUCH:** Oh, I'm sorry. I go by my middle name, Dennis. My first name is longer, but I go by Dennis, D-e-n-n-i-s. My last name Strauch, is spelled S-t-r-a-u-c-h.

**BOSTELMAN:** Go ahead.

**DENNIS STRAUCH:** As I mentioned, I have completed two terms on the commission representing irrigation districts across the state. I have been renamed for a third term, which will be my last, it's time. A



\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

little information about myself. I'm a native of western Nebraska, having spent my entire life in the Scottsbluff area. After high school, I attended junior college, studied in pre-engineering classes, left college, got married and had some kids, went back to college in the late 1980's and studied business management. I started my career in Water Resource Management with Pathfinder Irrigation in 1977. Pathfinder is the largest irrigation district in the state of Nebraska. We serve over 800 customers and 117,000 acres in Scottsbluff, Morrill and Sioux Counties of Nebraska, as well as the Goshen County in Wyoming. Not many people know we go across state lines and do and are involved in Wyoming water resources. In 1981, I was named to a newly created position as assistant manager and was charged with developing and implementing the district's water conservation plan. In 1990, I was named general manager for the District. I retired from full-time employment with the district at the end of 2021. I am currently retained on a part-time basis as an advisor to help with the transition to new management. As general manager, I was responsible for all aspects of the district's operation, including budget development and implementation of policy, delivery of water, maintenance of the water delivery system. I oversaw 25 full-time employees and 17 seasonal employees. I also had a lot of working relationships with federal and state agencies in both states because of our water rights and water operations in Wyoming, I worked with those folks in Wyoming as well. My involvement in state policy includes serving on the Water Policy Task Force appointed by Governor Johanns in 2002, as well as the Water Funding Task Force appointed by Governor Heineman in 2013. I also served on several local and statewide boards. Having completed two terms on the Commission, I have a very good understanding of the role I play as a commission member, which will help mentor new members as they come on to the Commission. My first term on the Commission was spent with developing the application process of rules and regulations for the new Water Sustainability Fund, as well as reviewing all the rules and regulations that are assigned to the different funds we administer. The Commission continues to listen to project sponsors and others as to how the Commission can improve the process. In fact, we're in the process of another set of rules that are being reviewed that may be put forward soon. My number one goal for serving on the Commission is

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

to help ensure Nebraska moves forward with the wise management of its natural resources. None more important than water. While Nebraska is blessed with an abundance of water, it is important to remember it's a finite resource that needs to be managed, developed and protected to ensure future generations have adequate quantity and quality of water to grow Nebraska. I believe as the Commission moves forward, we'll see a change in some of the applications we're receiving as there has been a question here to Director Riley about water quality issues. And prior to the last couple, a few applications, most of them have been for water quantity but we're starting to see more applications coming in to address water quality issues. And I think that will be an important role the Commission plays into the future. Second goal is to invest the time necessary to ensure the financial resources given to the Commission by this Legislature and invest wisely. Over the past eight years, I think the Commission has demonstrated fiscal restraint and only funded the very best water projects that move Nebraska forward and develop and improve the managing its water resources. I also believe my experience will help as we bring new members onto the Commission. I like to call it institutional memory, but if confirmed by the committee, I promise to continue to commit the time necessary to conduct my duties as the commission members. And with that, I'll close and take any questions.

**BOSTELMAN:** OK. Thank you, Mr. Strauch. Are there any questions from committee members? Senator Hughes.

**HUGHES:** So newbie. Can you, you mentioned that the Commission, it sounds like, gives out grants and things like that. Where, where does the funding come from annually? What do you have? And maybe just some samples of, the types of projects?

**DENNIS STRAUCH:** There's several funds administered by the Commission. There's a small dam and watershed fund. The big fund is the Water Sustainability Fund, which is about \$11 million a year. That comes from, from the Legislature through appropriations. Most of the other funds are funded, I think, directly through the Department, to the Legislature's appropriations as well. There are several funds. There's soil and water fund. There is numerous funds. Water Well Decommissioning Fund is also one of those.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BOSTELMAN:** Senator Moser.

**MOSER:** So with the drought, were there some irrigation districts that had to curtail water deliveries last year?

**DENNIS STRAUCH:** Yes, the drought. From my area, we get on the average 14 and a half inches of rainfall. So without irrigation water, we're not in ag production. We just can't produce. In our area since 2002, we've actually had ten years, almost half of those years since 2002 have been water-short years. Our water supply is dependent on the snow that falls in Colorado and Wyoming mountains, comes into the federal reservoirs, and then it's delivered to our valley for irrigation. Our irrigation system is unique in that way. As senator, or excuse me, as Director Riley said, we do, we do a significant amount of groundwater recharge. Without our systems, available groundwater is very limited. Our groundwater feeds are industrial or municipal or domestic. All our groundwater uses, including additional irrigation, is, is sourced through our surface water, but there are shortages throughout the state. Ours has probably been one of the most impacted areas just because it's been several years almost back to back.

**MOSER:** So are you able to deliver half the water that they requested or?

**DENNIS STRAUCH:** It depends on runoff, of course, that comes out of the mountains and what we're able to save from year to year. But last year we delivered about 80 per cent of a normal supply. We have delivered as, as small as half in some years. So we, we've improved our system significantly over the last 25 years to where we've actually been able to manage pretty well even with our limited water supplies in trying to produce a crop.

**MOSER:** OK. Thank you.

**DENNIS STRAUCH:** You're welcome.

**BOSTELMAN:** Senator Brandt.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BRANDT:** Thank you, Chairman Bostelman, and thank you for your testimony today. When the tunnels collapsed three years ago, did that affect Pathfinder?

**DENNIS STRAUCH:** Only in the fact that we sent staff and equipment over to help the two districts that were impacted on the Fort Laramie Canal. But yeah, that was a significant impact to the valley when that come across.

**BRANDT:** Has that situation been resolved in Wyoming or not?

**DENNIS STRAUCH:** I think they have. I'm not involved much with their districts other than what I hear from their managers at the time to time and directors. But I think they have agreed to a final solution, which my understanding is they will be boring new tunnels through the existing tunnels and relining. That's an approach I think they've agreed to from an engineering standpoint. And I think during the process there's quite a bit of permitting and other things they have to secure as well as funding to get it done.

**BRANDT:** But they have a temporary solution in place today to get those acres wet on the Nebraska side?

**DENNIS STRAUCH:** They have a temporary fix. It has an impact on their capacity. So it's about 90 per cent of their normal capacity. So they have had significant limits on their water deliveries to their producers. Some of my good friends farm under that district, and the impacts have been pretty significant on crop production, reductions of 20 to 25 percent. Because of it, it's something that needs to get fixed sooner.

**BRANDT:** All right. Thank you.

**DENNIS STRAUCH:** You're welcome.

**BOSTELMAN:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman, and thank you, is it Strauch?

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**DENNIS STRAUCH:** Strauch.

**J. CAVANAUGH:** Thank you for your willingness to continue to serve. So I obviously want to ask you a question about the water quality projects. What kind of projects are you thinking are going to be coming for grant funding?

**DENNIS STRAUCH:** Well, we have seen a few water quality projects. City of Hastings was a big one that was awarded early. The first, first or second application to the Water Sustainability Fund, and it was a big water quality improvement project for them, about \$6 million roughly was given to them.

**J. CAVANAUGH:** Was that like a reverse osmosis?

**DENNIS STRAUCH:** It had to do with some reinjecting water to improve the water quality. I don't know, I don't think their issues were really high nitrate so much as they had some armory contamination in that area.

**J. CAVANAUGH:** It was uranium, I think.

**DENNIS STRAUCH:** Yeah.

**J. CAVANAUGH:** Right. Yeah.

**DENNIS STRAUCH:** That's our problem in western Nebraska too, is uranium.

**J. CAVANAUGH:** And we saw last year, I think we did give some ARPA funds for some towns to get water quality improvement projects as well. So that's the first one, but seeing more, you're expecting more, or.

**DENNIS STRAUCH:** We've seen some smaller ones come in mostly cities. One of them was a reverse osmosis. Some of it was dealing with aged infrastructure for municipalities and small cities that were struggling not only with water quality but also quantity issues that were combined just because of what I call aged infrastructure. But we're seeing some more applications every year that are kind of

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

looking more at water quality. I think we'll continue to see more because it's becoming a bigger problem all the time.

**J. CAVANAUGH:** And so I guess that's my question to you. So I guess a two-part question. One is you guys have regulations for the grants. Do you think you need to update the requirements to make sure that these projects are eligible or are they already contemplated and.

**DENNIS STRAUCH:** They are already eligible. They are our water quality points that are awarded under the grant system. And in fact, the city of Hastings was one of the highest scored grant applications we've received.

**J. CAVANAUGH:** And in terms of, and those projects all sound like, I mean, my impression of like I'm thinking of reverse osmosis. They clean the water, they inject it back in. And as Senator Gragert, who used to sit over there where Senator Brandt is and we miss on this committee, would say the solution to pollution is dilution. And that sounds like that's what these projects are.

**DENNIS STRAUCH:** Some of them are, yes.

**J. CAVANAUGH:** My, my question is, are they, are we talking about or looking at other projects that are going to address maybe front end in trying to prevent the water from, the quality from degrading as opposed to addressing the degradation once it's happened?

**DENNIS STRAUCH:** I think that's probably going to come more from the NRDs as they have to look at how to ensure water quality in the future. Nitrates is a big problem throughout the state, I know that. I think you're going to see the NRDs have to start dealing with best management practices, things that improve farming practices to limit how much nitrates and contaminants reach the groundwater as well as surface water.

**J. CAVANAUGH:** But that's not, there wouldn't be grants or funds available through the water quality-

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**DENNIS STRAUCH:** Unless there was a specific project that would implement some kind of a project that would help with that, that could possibly move forward.

**J. CAVANAUGH:** OK. Thank you.

**DENNIS STRAUCH:** You're welcome.

**BOSTELMAN:** Any other questions from committee members? Seeing none, thank you for your willingness to continue to serve on the Natural Resource Commission. Appreciate you coming in today. Thank you.

**DENNIS STRAUCH:** Appreciate it.

**BOSTELMAN:** Anyone like to testify as a proponent for the reappointment of Dennis Strauch to the Natural Resource Commission? Anyone does, testify as a proponent? Seeing none, anyone like to testify as an opponent to the reappointment of Dennis Strauch to the Natural Resource Commission? Seeing none, anyone like to testify in the neutral capacity? Seeing none, that'll close our hearing on the reappointment of Mr. Dennis Strauch to the Natural Resource Commission. We will now, next hearing will be on Devin Brundage. Will you please come forward. Mr. Brundage will be seeking an appointment to the Natural Resource Commission, so. Good afternoon.

**DEVIN BRUNDAGE:** Good morning, Senator Bostelman and Senators. My name is Devin Brundage, D-e-v-i-n, Brundage, B-r-u-n-d-a-g-e. I am a newly appointed appointee to the Nebraska Natural Resources Commission. I am a long line, lifelong Nebraskan as well. I grew up on a small farm near Cairo, Nebraska. Graduated from high school there, attended Hastings College, studying physics, and received a Bachelor of Science and electrical engineering degree from the University of Nebraska-Lincoln. From there, I went to work for the Central Nebraska Public Power and Irrigation District and have been there ever since, now over 30 years. In my role there, I've held many different responsibilities. But by and large, the district, the central district is the entity that has Lake McConaughy and the power generation facilities from Lake McConaughy down to Minden, including the irrigation facilities. We irrigate over 107,000 acres in the south

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

Central valley. Water is absolutely important to our district in, in many, many respects. Our district's been around for 80 years, born of the need to produce power and to deliver surface water irrigation to our customers. Today, we provide low cost surface water, irrigation, groundwater recharge, power generation, recreational opportunities, and an enhancement to the environment in which we live. That's our mission. And as general manager for the last five years, I worked with the board to try to achieve that mission and do everything that we can within the confines of our district to promote prosperity up and down the river valley, utilizing that water resource in good stewardship fashion and working with our partners to manage that resource as best we can for everybody. We've embarked on a number of exciting adventures in the last few years, including the Star Wars endeavor that the Legislature has put forward to improve recreation at Lake McConaughy. Central has been involved in the South Platte canal, the Perkins County canal, for many years, promoting the need to continue to bring that resource to Nebraska and to our people. And we continue to work with our partners in innovative ways to try to develop methods by which we can manage the water resource most effectively for everyone and ensure that we're serving Nebraskans the best that we can. With that, I will close and entertain any questions or comments you may have.

**BOSTELMAN:** Thank you. Mr. Brundage. Can you, I'll ask first. What position are you filling on the Commission?

**DEVIN BRUNDAGE:** It is the position for the public power and irrigation districts' seat.

**BOSTELMAN:** OK. Thank you. Are there questions from committee members? I see, I think you were appointed in August, was it of last year, '22. Have you had opportunity prior to and since then to obviously be at meetings and how many of them do you typically have and how many have you been at, your involvement with that?

**DEVIN BRUNDAGE:** I'm, I'm learning rapidly, but I wasn't able to attend the last meeting in late fall of last year. So I, I don't know what I don't know at this point.



\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BOSTELMAN:** How many meetings do they have?

**DEVIN BRUNDAGE:** I believe they're quarterly.

**BOSTELMAN:** Quarterly, OK. Do you think that there may be a circumstance where you might be involved in a conflict of interest and in the position that you've been appointed to and if so, how would you handle it?

**DEVIN BRUNDAGE:** With regard to administering a grant funds and and the like, should there be a time at which our district might be a participant in a fund request, we would, of course, have to step back from that, that discussion.

**BOSTELMAN:** OK. Thank you. Any other questions from the committee members?

**JACOBSON:** I would have a.

**BOSTELMAN:** Senator Jacobson.

**JACOBSON:** I guess just as a follow up. I, if you're meeting quarterly and you did miss the last meeting, or I would assume were committed to making all the meetings going forward and this will be a priority?

**DEVIN BRUNDAGE:** Oh, sorry, I didn't miss it. I made that one, the last meeting that after I was appointed.

**JACOBSON:** OK, excuse me. I misunderstood that. Thank you. All right.

**BOSTELMAN:** Seeing no other questions, thank you for your willingness to serve and coming in today. Thank you.

**DEVIN BRUNDAGE:** Thank you, Senator. Thank you, committee.

**BOSTELMAN:** Ask if anyone would like to testify as a proponent for David [SIC] Brundage to be appointed to the Natural Resource Commission? Any proponents? Anyone like to testify in opposition? Seeing none, anyone like to testify in neutral capacity? Seeing none, that will close our hearing of the appointment of Devin Brundage to

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

the Natural Resource Commission. Next will be the appointment or reappointment of Dan Czaplewski? Mark Czaplewski, sorry.

**MARK CZAPLEWSKI:** Thank you, Senators.

**BOSTELMAN:** You're welcome.

**MARK CZAPLEWSKI:** My name is Mark Czaplewski, M-a-r-k C-z-a-p-l-e-w-s-k-i. I knew my ABC's in kindergarten. I also am a native Nebraskan, born and raised in Loup City. Went to high school there, went on to college at UNK, back in the Kearney State College days. I have a bachelor's degree in biology with a minor in environmental studies. Married a native Nebraskan. My wife, Rita, is a registered nurse in Grand Island. Three kids, a daughter in Omaha who's a nurse practitioner. A daughter in South Sioux City, who's a science teacher, and a son who lives in Phoenix, who's a neuropsychologist. After graduating from college, I began employment in, in Columbus, Nebraska, for Nebraska Public Power District where I worked in both the Environmental Affairs Department, as well as in my later years there in the Water Resources Department. Worked there a little over 20 years and then moved to Grand Island with my family and worked for 20-some years for the Central Nebraska, I'm sorry, Central Platte Natural Resources District in Grand Island, as a biologist. Worked primarily on water resources issues but also on biological issues. I worked on Platte River issues which you might know deal with a lot of endangered species and species of special interest. So that was a good share of what I did. I filled out the end of a vacated term here in 2017, I believe. My position on the Commission is wildlife conservation interests and have been, this would be my second reappointment, so.

**BOSTELMAN:** OK.

**MARK CZAPLEWSKI:** That's all I have. If you've got questions, I'm happy to try and answer them.

**BOSTELMAN:** Great. Thank you. Thanks for allowing us to see if there are other questions from committee members. Senator Moser.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**MOSER:** When the Platte River goes dry like it did this spring and summer, how long does it take for that, when that water comes back to get all the species of fish and different things back into the river?

**MARK CZAPLEWSKI:** Depends on the specifics, but that's something we actually looked into more than once and surprisingly quickly, especially from a fish perspective. You know, migratory birds are not so impacted, but even the fish species that inhabit the river, you know, for the most part evolved, developed in, in a prairie stream that historically went dry far more frequently than it does now. And so the species that exist there are fairly in tune with that kind of water, water supply and boom and bust, and so generally respond very quickly.

**MOSER:** I had a comment from a friend about the river going dry and, and I told her that it's not that uncommon. I mean, Platte River has gone dry half a dozen times, at least in my time there.

**MARK CZAPLEWSKI:** At least. I am historically, there's something I looked at too years ago, but I think there's pretty good evidence that prior to European development of the Platte, there was- the Platte probably went dry as frequently as one every three years, and not just for a day or two, but for most of a summer sometimes, for a month or more.

**MOSER:** Yeah, it's too bad we can't take like the Loup and dump it into the Platte sooner so we keep water in there. That's a joke. Don't testify.

**BOSTELMAN:** Senator Jacobson.

**JACOBSON:** Thank you, Senator Bostelman. I guess I've got a strong interest in the Perkins County canal project and I'm just curious, from your background biologist standpoint, what should we anticipate for any issues from a biological standpoint, assuming that project moves forward?

**MARK CZAPLEWSKI:** I'm not sure of all the permitting required there, so I'm not sure who all is going to be involved, but I'd be surprised if

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

there weren't folks that brought forward endangered species issues. If there are federal permits involved, the Fish and Wildlife Service will probably be involved, and, and I'm guessing that would be a big focus of their interest there, possibly the state of Nebraska too. I'm not sure.

**JACOBSON:** From that endangered species, what would be the top of the list or what should we maybe potentially anticipate if there is something raised there, which I assume would be?

**MARK CZAPLEWSKI:** Thinking of primarily the Central Platte and the Lower Platte, where endangered species issues tend to be focused. The Central Platte issues, it will be primarily migratory birds, whooping crane, least tern, piping plover. On the Lower Platte which are migratory and so, you know, come through in the spring, go south in the fall and so they're here and gone. And least terns and piping plovers occasionally nest in the Platte too. So there's a summertime potential for impact.

**JACOBSON:** Are both of those species still on the endangered list or did one of them go off?

**MARK CZAPLEWSKI:** Piping plovers, they're both under consideration for down-listing or de-listing.

**JACOBSON:** That's what I thought, thank you.

**MARK CZAPLEWSKI:** From a Lower Platte perspective, a long way from Perkins County maybe, but especially the U.S. Fish and Wildlife Service, I'll be surprised if they aren't additionally concerned about pallid sturgeon and endangered fish species that, that occasionally uses the Lower Platte. By the Lower Platte, I mean downstream of the Elkhorn, sometimes up as far as the Loup but, but rarely. It's a pretty marginal habitat, in my opinion, for that species, but nonetheless is used. And so I'm sure it will get it's, it will be discussed.

**JACOBSON:** All right. Thank you.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BOSTELMAN:** Question. I have a follow up to Senator Moser, when we say the Platte is running dry, Platte-- there's subsurface movement of water there, correct?

**MARK CZAPLEWSKI:** Right, I mean below the surface.

**BOSTELMAN:** Surface-wise, but we still have water moving [INAUDIBLE].

**MARK CZAPLEWSKI:** The groundwater beneath that is.

**BOSTELMAN:** That's flowing down through there. This last year I was out the Crane Trust and some and the conservancy out there and we're talking, the question came up and I don't know if the Commission has much to do with this was, with the migration of the cranes and the whoopers and stuff coming through, they're starting moving further and further away from the river. Is there anything that the Commission works along those lines with restoration and or?

**MARK CZAPLEWSKI:** I think it's something to be concerned with, but not very directly. As projects might come through for potential funding, particularly with the Water Sustainability Fund you heard about recently, I hear earlier, you know, I, depending on the project, if there are projects that might want to withdraw water from the over and fully appropriated Platte River that could affect those species, then might drive them to other water sources. You know, indirectly, I think that would be where those sorts of issues would come up, but other than that, not particularly directly involved. Very project specific.

**BOSTELMAN:** OK. Thank you. Are there any other questions from committee members? Seeing none, thank you for your willingness to continue to serve on the Natural Resource Commission.

**MARK CZAPLEWSKI:** Appreciate your time.

**BOSTELMAN:** Thank you for coming in today. Would ask anyone for proponents for the reappointment of Mark Czaplewski to the Natural Resource Commission. Any proponents? Seeing none, any opponents to the reappointment of Mark Czaplewski? Anyone in a neutral capacity? Seeing none, that will close our hearing for the reappointment of Mr. Mark Czaplewski to the Natural Resource Commission. We will now open up a

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

hearing on the reappointment of Dan Steinkruger to the Natural Resource Commission. This is an original appointment, not a reappointment, correct? The first time?

**DAN STEINKRUGER:** Well, it's a new appointment. I previously served on the Commission representing the Lower Platte Basin.

**BOSTELMAN:** OK. OK.

**DAN STEINKRUGER:** Good afternoon, Chairman Bostelman and Senators. My name is Dan Steinkruger, D-a-n S-t-e-i-n-k-r-u-g-e-r. My wife, Lynn, and I live here in Lincoln, Nebraska, and we're both retired. My family originated in, or my family originally came from the Franklin area. Both, both sides of my family farmed in the Republican Basin down there. And I continue to have cousins and, and their families that are involved in agriculture in that area. My father farmed until 1960, gave up farming and moved our family to Lincoln. So I grew up here. I went to the University of Nebraska and got a degree in ag economics and went to work for USDA out of the University. I worked for, at that time it was the Agricultural Stabilization and Conservation Service. It's the, currently the Farm Service Agency. They simplified the name. And over my career, I was the county director in the Cass County ASCS Office in Weeping Water. My wife and my family and our kids lived there. In 1990, we moved to Lincoln and I took a job in USDA's State Farm Service Agency, where I worked in conservation programs, emergency programs and production programs. And the last eight years of my career, I spent as the state director for the Farm Service Agency here in Nebraska. I served 17 years on the board of the Lower Platte South Natural Resource District. And over those, that time, I served as chair of the board and some other officer positions. I also served on the board in the Nebraska Association of Resource Districts and chair of that board for a year. As I said, I served two years of a term on the Natural Resources Commission prior to this appointment representing the Lower Platte Basin. I have a strong interest in agriculture and natural resources and the environment, and that's why I submitted my name for this position to the Governor. With that, I entertain any questions.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BOSTELMAN:** Thank you, Mr. Steinkruger. Are there questions from the committee? Have you had the opportunity to attend, I see December was the appointment. Have you attended a meeting either prior to the appointment or since the appointment?

**DAN STEINKRUGER:** Yeah. I attended a number of meetings over the last couple of years. I did not make the December meeting and I also served on the committee that ranked and, and recommended the Water Sustainability Fund applications.

**BOSTELMAN:** Are there any changes? I think there was maybe some changes. Are there any changes to that that you, that was made this year to that process?

**DAN STEINKRUGER:** Well, the, the process is designed really to follow the, the guide the Legislature provided in the original legislation for the fund. And so, so that's how the ranking system is designed and, and has been used.

**BOSTELMAN:** So, Senator Cavanaugh isn't here, but I think he'd probably ask this question. Was there any, are there any programs there that dealt with, say, reverse osmosis or that, that you've seen come through?

**DAN STEINKRUGER:** Well, I think the, the previous individuals that testified mentioned a couple. You know, the Natural Resource districts have the responsibility for water quality. And you know what, what we're seeing is applications for them to gather, gather data within their districts to use for, for water quality program administration at the local level. You know, beyond that, the Hastings was mentioned and as was said before, there have been some smaller municipalities dealing with, with specific issues in, for those communities.

**BOSTELMAN:** Sure. How many commissioners are there?

**DAN STEINKRUGER:** I'm sorry.

**BOSTELMAN:** How many commissioners are there? How many of you sit on the Natural Resource Commission?

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**DAN STEINKRUGER:** 22 or 23, I believe. The Director would be better to ask that question.

**BOSTELMAN:** No, that's fine. That's, that's, so, so you have different, they break out into maybe other subcommittee's areas of expertise, then?

**DAN STEINKRUGER:** Well, certainly the, the chair appoints the committee to consider the Water Sustainability Fund applications.

**BOSTELMAN:** OK. Any other questions from committee members? Is there anything that you see that needs to be changed that we need to consider?

**DAN STEINKRUGER:** Well, I certainly have some personal opinions, but to me, the Commission really does the bidding of the Legislature and in how the Legislature passes, you know, your guidelines, your laws on how the programs are to be administered.

**BOSTELMAN:** OK. Very good. Thank you.

**DAN STEINKRUGER:** OK. Thank you.

**BOSTELMAN:** Any other questions? Seeing none, thank you for your willingness to, to serve and.

**DAN STEINKRUGER:** Yes. Could I submit a letter in support?

**BOSTELMAN:** You cannot submit a letter to support for, OK, give it to the page and they'll make copies so that we get them all.

**DAN STEINKRUGER:** I have copies, so.

**BOSTELMAN:** OK. That'll work. That'll work. Thank you very much for coming in today and thanks for your willingness to serve. So I would ask that anyone, a proponent to testify in support of Dan Steinkruger for the Natural Resource Commission. Any proponents? Any opponents to the appointment of Dan Steinkruger to the Natural Resource Commission? Anyone testify in the neutral capacity? Seeing none. We do have, did receive a letter from John Hansen, Nebraska Farmers Union in support.



\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

With that, we will close the hearing on the appointment of Dan Steinkruger to the Natural Resource Commission. Thank you for your willingness to serve. Next, we'll open the hearing on Kristen Gottschalk to the Nebraska Power Review Board. Good afternoon. Welcome.

**KRISTEN GOTTSCHALK:** Good afternoon, Senator Bostelman, members of the Natural Resources Committee. This is an unusual seat for me to be in. My name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm a lifelong resident of the state of Nebraska, with the exception of 18 months as a tween when I lived in Saipan. Did return back to the great state of Nebraska. I attended the University of Nebraska, receiving a bachelor's degree in Agriculture, Natural Resources and Wildlife Management. Through my, in my past life, I spent a number of years working for the Game and Parks Commission in a variety of temporary and consulting areas, working to write for the magazine, developing outdoor education materials and providing educational programs, as well as working on a barn owl restoration and river otter reintroduction in the state of Nebraska. A lot of fun back in those days. I did work following my employment at Game and Parks, I continued to do some consulting work in environment education. In fact, was a founding board member of the Nebraska Environment Education Association. I also did work as a consultant writing environmental assessments for projects, received federal funding, and that impacted the state of Nebraska. In a, in a roundabout way, I know it sounds like I'm almost testifying to be on the Natural Resource Commission, but in a roundabout way, things changed. I came to work at the Legislature for a friend of mine who's a fisheries biologist, and moved quickly from that position to a legislative aide position for our state Senator Stan Schellpeper, who hired me because of my ag background. But he had a strong interest in electricity and the rural electrification program. In fact had served in the Stanton County Rural Electric Board for many years and had been president of that association. And so we did deal with a lot of electric issues in our office because of his experience and knowledge. I continued working for Stan until he passed away in office in 1999. Finished out that term with the freshman senator who was appointed, but then went to work for the Nebraska Rural Electric Association. I started my career

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

there as the editor of the magazine because if you have a degree in wildlife biology, you can do just about anything, right? So I did work as the magazine editor for the Rural Electric Nebraskan. Those of you that live in rural areas, you probably have read that magazine. Two and a half years into that, our general manager retired and our lobbyist became the new general manager. So I assumed the role of government relations director, which of course had a component of lobbying, which was one probably the major portion of the job. But as government relations director, I also worked coordinating efforts between rural elected members and state and federal and local agencies. One of the things I'm most proud of, this kind of takes me back to my wildlife roots, was able to work with the Fish and Wildlife Service and Game and Parks in developing avian protection plans for the rural electric systems, which is something that, that it was a collaborative effort and created a partnership between two agencies that used to maybe butt heads a little bit. Part of that included educating the members at Fish and Wildlife Service and Game and Parks as to the configurations of distribution systems, what that means and how those could be changed to protect wildlife. Also worked with the AG's Office working on human trafficking issues. Rural electric linemen in that are often in those areas where, where it's most important to be the eyes for things that may go on that shouldn't be, shouldn't be happening. I did retire from my position in 2021, fully thinking I wanted to maybe pursue other interests, do something else. But retirement called to me a little harder, so I fully retired my, my position. One of the things I didn't mention is I also served on the board of directors for the Nebraska Water Resource Association for the, for the association for NREA. I'm excited about the opportunity to serve as a member of the Power Review Board. You hate to think that involved all that institutional knowledge you gather during your years of employment goes to waste when you retire. So I hope that I can bring some of that experience to the, the Power Review Board. I do feel strongly, though, that my role on the Power Review Board is to follow the statutory guidelines and the specific parameters set in statute. So whether I have an opinion on a certain generation resource or a transmission line, that's secondary. And as long as those issues that come before the board meet the statutory specifications, that's where the votes have to happen and I feel very strongly about that.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

Kind of bringing my, my background to, to the Power Review Board. I think that good information helps people make good decisions. I employed that as an environment educator, I employed that as a lobbyist. I think I'll continue that as, as a member of the PRB. While I said I did retire, I did engage with a group that sought to enhance education on nuclear energy, strictly an education organization and do serve in a leadership role on the Advanced Nuclear Coalition, which is in the process of putting together an educational forum in May. With that, I would be happy to answer any questions you may have.

**BOSTELMAN:** OK. Thanks, Ms. Gottschalk. Are there other questions from the committee? Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. Thank you, Ms. Gottschalk, for testifying today. Can you enlighten me, how many people are on the Power Review Board and essentially, is there a function to approve every transmission line in the state?

**KRISTEN GOTTSCHALK:** The Power Review Board was created in 1963. Ironically, the year I was born. Was created in 1963, has five members, so it's a small board to make decisions. And while they are not required to approve transmission, every single transmission line, anything over 700 volts does have to be for approval. Unless and I would have to consult again. I'm still in the learning process of all the statutes attributed to the Power Review Board. Unless of course, it's a short enough line or it's connecting to another line if it's not a large project.

**BRANDT:** So a large project, R-line, comes to mind. We're all familiar with that. That would probably fall under the purview of your, your board would have to approve that for that project to go forward.

**KRISTEN GOTTSCHALK:** Yes. And I believe that that approval has already taken place for that, for the R-Line.

**BRANDT:** Thank you.

**KRISTEN GOTTSCHALK:** Yes, that's where it would go.

**BOSTELMAN:** Other questions. Senator Jacobson.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**JACOBSON:** I guess I'd just like to follow up on the question that Senator Brandt just asked with regard to the R-Line that runs right through the middle of my district and needless to say, it has significant amount of controversy associated with it. You've indicated your involvement with environment and endangered species and different things. I'm being told that bats aren't particularly endangered when, when they are encounter wind energy farms, that they evidently suck the lungs out of the bat when it goes through the path of the wind turbines. And I'm just curious as to your thoughts as it relates to wind energy in particular and, (a) whether it's an efficient way to produce electricity and whether it's a safe way to do it in terms of the environment in particular, at various species.

**KRISTEN GOTTSCHALK:** Well, I just want to preface this by saying my role on the Power Review Board, you know that, my--

**JACOBSON:** I'm asking for your personal opinion.

**KRISTEN GOTTSCHALK:** My personal opinion is that there is a need to have a diverse energy resource mix in the state of Nebraska. And I do think there needs to be evaluation on every generation project for its impact on wildlife, land use and and the impacts that it might have on the environment. I think those things are important and those are part of the approval process where they have to go through a consultation with the Game and Parks and in those very large projects. And we're talking about the R-Line, of course you have to have a very thorough environmental review of the impacts that it will have. My, my personal opinion is that wind has a role, but it's not, it would not be my first choice of, of generation, but me picking generation resources is not my role and.

**JACOBSON:** Well, I'm intrigued with your background in nuclear. And it sure seems to me that wind would be not, would be clearly at the bottom of my choice because of its inefficiency. Seemingly, it's generally done for tax purposes, more so than real quality, reliable generation, and small nuclear seemed to be heading in that direction. So I'm just curious as your view on, on the nuclear side?

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**KRISTEN GOTTSCHALK:** You know, I do believe that nuclear and I think it's nuclear that we're, that is coming of age at this point. You know, we're seeing new projects at the Idaho National Labs and we're seeing micro reactors and small new nuclear reactors. And one of the things, you know, that we're seeing as we're moving to a zero carbon environment, utilities are, are being, are moving from reducing their, their carbon inputs. And there is still a need for, for a strong baseload generation resource that with the other intermittent loads that may not be on the line that are part of that diverse mix, are something that can, can chase those loads and respond to those loads but ensure the electric reliability stays in place. Again, that is a role of the Power Review Board to make determinations on the reliability, the cost of the infrastructure and what's in the best interest of the consumers.

**JACOBSON:** Thank you.

**KRISTEN GOTTSCHALK:** Uh-huh.

**BOSTELMAN:** Senator Slama.

**SLAMA:** Thank you, Mr. Chairman. And not a question, just a general statement. We very rarely see appointees come along with the mix of experience and the length of experience that you have, and your willingness to serve on this board is really appreciated. And I'd just like to thank you for putting your name in for consideration.

**BOSTELMAN:** No other questions, thank you for your willingness to serve and coming in today.

**KRISTEN GOTTSCHALK:** Thank you.

**BOSTELMAN:** Is there anyone who would like to testify as a proponent for the appointment of Kristen Gottschalk to Nebraska Power Review Board? Any proponents? Seeing none, anyone like to testify in opposition to Kristen Gottschalk to the Nebraska Power Review Board?

**\*AL DAVIS:** The Nebraska Chapter of the Sierra Club is opposed to the appointment of Kristen Gottschalk to the Nebraska Power Review Board. The Power Review Board is largely made up of experts in the field of

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

energy whose background is based in the science and delivery of power to Nebraskans, addressing issues of transmission and reliability. Those serving on the board have years of experience in their field. Ms. Gottschalk's background has been as a lobbyist in the Nebraska Legislature where her primary role was to support the entities which she lobbied for, the Nebraska Association of Rural Electric Associations and the Generation and Transmission Association. In fact her Linked-In page lists her as a nuclear industry advocate. The Power Review Board has been a passive entity, responding to questions and needs of the industry. It does not traditionally advocate for industry. Because of that Ms. Gottschalk is not a good fit for the board. Thank you.

**BOSTELMAN:** Seeing none, anyone like to testify in a neutral capacity? Seeing none. There was one letter of opposition submitted by Al Davis, Nebraska Chapter Sierra Club. With that, we will close the hearing on the appointment of Kristen Gottschalk to the Nebraska Power Review Board. Our next hearing will be on Bradley Bird appointment to the Nebraska Ethanol Board.

**BRAD BIRD:** All right, thanks for having me here today. Brad Bird, it's B-r-a-d B-i-r-d. I've been a 26-year-long member of the Steam Fitters and Plumbers, local union 464, Omaha, Nebraska. I grew up in Omaha. About 13 years ago, moved out into Washington County. My kids go to Blair schools and we kind of became part of that community. I spent my first sixteen years working for the Waldinger Corporation. I had the opportunity to work in a number of the ethanol plants around the state, primarily, excuse me, Cargill, Husker AG in Plainview and Aurora. The past ten years I was in the office representing about 1,300 pipefitters, welders, HVAC techs and plumbers across the state, and most recently I've changed jobs to where now I represent over 15,000 members throughout Missouri, Iowa, Nebraska and Kansas. I joined the Ethanol Board in 2017, filled out the remainder of a term and then this would be my second appointment. I've really enjoyed being on the board primarily to help educate people on the importance of ethanol and extending access to the higher blends. Some exciting things. Most recently we've been working on the E30 demonstration, just approved to be in 825 non-flexible vehicles. The data we hope to collect through that study is going to be really important to

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

everything we're doing moving forward. While on the board, I've learned a lot about how the other state agencies and with our involvement, like the Department of Economic Development and the Department of Agriculture, all work together, it's been great to see how everybody can come together for same common goals, work together on those things. It's been really eye opening for me, but most importantly to me is the ability for ethanol production to pervade, to provide high skilling jobs to the rural communities. I believe across the state of Nebraska, the ethanol industry directly supports over 14,000 jobs and the average earnings per person in the industry are about \$78,000 a year. So I thank you for having me here today, and I'm happy to answer any questions you may have.

**BOSTELMAN:** Thank you, Mr. Bird, for willingness to serve. One question I have. What position do you fill on the, what position do you fill on the board?

**BRAD BIRD:** So originally it was a labor position. I was the labor representative, but anymore I don't know that that's a requirement, so I'm just a board member.

**BOSTELMAN:** OK. Thank you. Other questions from board members. Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. Thank you for your testimony today. How many active ethanol plants are left in the state of Nebraska?

**BRAD BIRD:** Oh, boy, I'd have to refer to Reid.

**BRANDT:** No, that's fine. And then you stated you worked at like, Aurora and Husker. Some of these plants. You know, the one byproduct distillers is very important to the cattle feeding industry in the state of Nebraska. Do the majority of our plants put out wet or dry distillers?

**BRAD BIRD:** The majority of the plants, let's say it's a good mix between them. I'm not 100 percent sure on the percentage.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BRANDT:** So then the last question is, the funding for the Ethanol Board comes from?

**BRAD BIRD:** Through the state. So as a, one of our roles on the board and I'm going to let Reid talk about that because I will tell, I will absolutely get it wrong. But one of our roles on the board is to approve any spending, approve any financing, approve the spending that comes to us. So the administrative side kind of gets more involved in the funding of the board and as a board member we get more involved in what we spend as a board.

**BRANDT:** All right. Thank you.

**BOSTELMAN:** Are you self-funded, the board?

**BRAD BIRD:** It comes out of a tax. Yeah. I know. Reid's going to get up and talk in a minute, so I'm going to let him explain it because I'm going to say something wrong on that, yeah.

**BOSTELMAN:** That's, that's fine. That's fine. Are there other questions from committee members? Senator Hughes.

**HUGHES:** Thank you. Thanks for coming. Uh, newbie. How many people are on the board and how often do you meet and?

**BRAD BIRD:** So we meet quarterly. I believe there's seven board members, plus our technical advisor from UNL, Hunter Flodman.

**HUGHES:** OK. Thank you.

**BOSTELMAN:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you, Mr. Bird, for your willingness to serve. And it's always good to see somebody from Omaha on this committee. So the Ethanol Board basically just, it's promoting ethanol is really what you do.

**BRAD BIRD:** We do.



\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**J. CAVANAUGH:** In the last two years, have you guys seen any kind of black eye on the industry as a result of what happened in Mead?

**BRAD BIRD:** You know, it's been a topic of discussion, but not directly. I mean, at first it seemed like it was going to start out that way. There's been a lot of discussions about it. But honestly, I mean, with the carbon capture and a lot of the things that are going, we've just focused our energy on other areas like the E30 demonstration. That's a real good one that we've been focusing on. So not directly, to answer your question.

**J. CAVANAUGH:** And I mean kind off with Senator Brandt's question about the distillers that comes out that a lot of, uh, cattle producers use. The stuff out at Mead was not something you can feed, wasn't food grade, wasn't able to be used for--

**BRAD BIRD:** Correct.

**J. CAVANAUGH:** --cattle. Have you seen any kind of, people concerned in terms of that symbiotic relationship between ethanol plants and cattle production?

**BRAD BIRD:** You know, honestly, with everything going on in Mead, it was just a lot of noise for a while. And as a board, like I said before, we discussed it, we looked at it, but we just didn't focus on it. We just kept moving forward with our mission.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** I believe that the AltEn was not a member of the, of your Ethanol Board, is that right?

**BRAD BIRD:** I'm sorry.

**BOSTELMAN:** They were not a member of the Ethanol Board, so they do not have a direct relationship with your board anyway, correct?

**BRAD BIRD:** Correct.

**BOSTELMAN:** OK. Senator Jacobson.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**JACOBSON:** Thank you, Senator Bostelman. I, again, I appreciate your willingness to serve. I think you bring a unique background and can do a good job on this board. You know, in addition to my day job, I'm an ag producer, farm ground down in Clay County, and I actually deliver corn to the ethanol plant in Aurora. Obviously, the AltEn thing is really a one off by a long ways. And the ethanol industry has been very responsible and a great industry for Nebraska. Some of the statistics you mentioned early on is, it's, it's huge. It's, it's huge to really creating a clean alternative fuel. It's providing a high quality feed stuff for the, for the cattle feeding industry. And it's absorbing a lot of our corn crop and providing great, unique opportunities for our farmers to sell to. As you look at continuing to promote ethanol on this board, that's a really your main push. Where do you see the focus going forward to continue to expand the use of ethanol throughout Nebraska?

**BRAD BIRD:** So in multiple ways, you know, one, where the carbon capture technology is coming out. It's going to take some upgrades, it's going to take some modifications to the plants. But there's just a lot of opportunity there for other products too. And another thing like the Cargill plant up in Blair, I mean, that's, it's the Cargill family. There's so many byproducts. It's a very efficient plant. You know, they use all them byproducts for different things. So I think our mission, while it's always been basically ethanol, is kind of expanding to not just ethanol, but ethanol and byproducts and biofuels and other things as we move forward.

**JACOBSON:** And I would agree with that. I, I do think, I've always felt that one day maybe ethanol might be the byproduct of what we're, what we're doing with all of the products that are being utilized today. And it's encouraging to see what's happening there. And so, again, I appreciate the work you, or the background you bring, and I think what you can bring to the board. So thank you for testifying today.

**BRAD BIRD:** Thank you.

**BOSTELMAN:** Senator Cavanaugh.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**J. CAVANAUGH:** Thank you, Chairman Bostelman. I, you know, you said carbon capture twice, I kept forgetting, I was wondering why that was registering with me. So we passed the bill about the sequestration two years ago. I assume the Ethanol Board would not, would have limited involvement in that, or do you have any knowledge about people expressing interest, looking at those projects or trying to? We were basically told that was going to get us into the California market really.

**BRAD BIRD:** So not specific to the Ethanol Board but to my other job. You know, I know we've been meeting with Summit based out of Iowa. We're looking at a number of projects. I mean, it kind of depends on what happens with the pipelines. Once the pipelines start moving and are approved and everything happens there, then we'll get into the modification side of the plants. But it's a huge topic of conversation right now. It's very exciting. There's a lot of things going and I think once that starts happening, we'll probably have discussions more as a board once we get to those points. I hope that answers your question.

**J. CAVANAUGH:** That's great. Thank you.

**BOSTELMAN:** Any other questions from the committee? Seeing none, thank you for coming in today. Thank you for willingness to continue to serve.

**BRAD BIRD:** Yeah, thank you for having me here today.

**BOSTELMAN:** Yes, sir. Thank you. Anyone who would like to testify as a proponent to the reappointment of Mr. Bradley Bird to Nebraska Ethanol Board?

**REID WAGNER:** Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. I am the aforementioned Reid, coming up to speak. My name is Reid Wagner, R-e-i-d W-a-g-n-e-r. I'm actually the director of the Nebraska Ethanol Board. I started with the board last year about this time as well. So I'll just kind of start by explaining a little bit on the ethanol industry's outlook. It's, it's rapidly changing. I mean, it's changed even in the last year that I've

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

been here with the board too. And as kind of mentioned, one of the ways forward is looking at ethanol as maybe kind of a building block for other products going forward. There's a lot of really interesting chemistry being, taking place in Columbus and Blair. Other plants are looking elsewhere for the same exact thing, all to try to bring value back to the state of Nebraska. Our growers, the producers of ethanol, the producers of our grains. So kind of looking at that, there's a lot of innovation that could be brought to Nebraska specifically, and that brings a lot of infrastructure and investment. And we're happy to have Brad be offered for reappointment here to our board in kind of that labor role to understand the workforce development requirements as well as, of course, looking at the talent pipeline coming through Nebraska to supplement all of these really, really fantastic projects in so many different areas. Happy to answer some of the questions that were posed earlier too, kind of on the administrative side. So our funding comes from a tax on denaturant purchased by ethanol plants. So they pay a 1.25 cent per gallon tax that then funds our board and our activities. We do use those for promotional activities, research and development activities. As I mentioned, the E30 demonstration just proving the use of ethanol as a higher blended fuel in our existing fleet. There's many good environmental benefits for running a smaller chain molecule like ethanol. I could get pretty in the weeds and be nerd out, up here for a little bit, but all in all, it's really good for the environment, trying to displace our fossil fuels and some of the toxic components of gasoline through the use of bio-based ethanol. We also have 24 ethanol plants operating across the state at the moment. The permitted capacity across all 24 is 2.6 billion gallons. About nine and a half million tons of DDGs are created, which are those distillers grains. And then I guess I'll, I'll kind of jump in on some of the conversation on Mead as well, and kind of looking at that particular plant within our statutes, actually, I think it's 1330 or 1349 to 51. There's actually something that was passed by the Legislature a couple of years ago to ensure that no ethanol plant is utilizing treated seed corn in their production process. Because what happened in Mead is not production of ethanol from typical field corn, that was turned into effectively a waste facility with an ethanol byproduct because that treated seed corn would have been treated as waste as well. So it was essentially an illegal operation of a waste

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

facility happening out at Mead. And of course, that's just the way that those bad actors kind of set up that particular plant in that application. So I just wanted to kind of answer that one as well, paint a little picture for what was happening at that facility. Happy to answer any questions.

**BOSTELMAN:** Thank you. Are there any questions from committee members? Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. What does this add to a bushel of corn in the state of Nebraska, if we didn't have these 24 plants?

**REID WAGNER:** Well, the entire economic impact is well over four and a half billion dollars for the state. And of course, that's spread out across multiple full-time equivalent employees. But on average, it adds about \$0.23 per bushel back as the crow flies about 50 miles from each plant.

**BRANDT:** That's great. So, so the second question is kind of a nerd question. So maybe you're my guy. I don't know if I dream this or if I heard this somewhere because I farm too. Were they mixing ethanol in diesel fuel to try to get more pop out of that?

**REID WAGNER:** They were actually at one point doing kind of a hybrid blend with diesel and ethanol. And what we've actually seen is some technology startups moving toward converting diesel engines to use E98. I encourage you to check out clear flame technologies that actually are making conversions of those engines and working with partners in Nebraska, such as Warner Trucking Enterprises to actually get that done too.

**BRANDT:** So if they're using E98, they only use 2 percent diesel?

**REID WAGNER:** They're using probably 2 percent denaturant just because that would be the requirement.

**BRANDT:** Wow.

**REID WAGNER:** But they're just converting the, they're able to convert those diesel engines to run on ethanol fuel.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BRANDT:** That would open up a huge market for you, would it not?

**REID WAGNER:** It, it certainly would.

**BRANDT:** All right. Thank you.

**BOSTELMAN:** Senator Jacobson.

**JACOBSON:** I know you ran out of time in your testimony, so I'd like to maybe yield some time to you if you'd like to say a little bit more about wrapping up the Mead situation or any other comment you want to give in your opening.

**REID WAGNER:** Yeah, I, you know, I, I just appreciate the opportunity to kind of talk about it because I know the question was whether it's a, it's a black eye, but we see it as a possible misuse of infrastructure in the state, really negligent use of something so great and something so synergistic to Nebraskan agriculture. And you're correct, those distillers grains could not be used because of the use of those treated seed, those corn kernels because they contain pesticides, herbicides as needed for their own application. So those wound up carrying forward into the feed. And that was the, that was really the, the crux of the issue there and why they couldn't land apply or use those to feed livestock in the state. And again, the Legislature did a fantastic job putting in something actually at the back of our statutes to ensure that no Nebraska facility will ever run untreated seed ever again. But I will make a comment that that was the last and only ethanol plant actually at the time converted to run on treated seed. So there are no more in the country actually doing this application too.

**JACOBSON:** And maybe just to follow up, I, I, I know I, when you go into an ethanol plant today or any grain facility, you're going to, you're going to drive in and you're going to find a sign that says untreated seed is unlawfully, it would be unlawful to deliver it here. And so there are safeguards in place today. And so that's out there as well. And I'm still, still trying to figure out how Mead ever got certified to begin with, but I think it's safe to assume that's never going to happen again.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**REID WAGNER:** But yep, absolutely.

**JACOBSON:** Thank you.

**BOSTELMAN:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. I'm glad you called on me because I was going to give, that was Senator Bostelman's bill that prevents us from, from that happening again. So he deserves the credit for fixing this problem going forward. And my question was more of just, you know, my interpretation to me, Ethanol Board is promoting the industry. And I was just kind of trying to find out if you guys have had to, you know, spend any extra funds addressing that issue from an education or, you know, rehabilitation, promotion. And it sounded like Mr. Bird answered that question, but I appreciate you coming up and answering further.

**REID WAGNER:** Yeah, absolutely. We have not, the, the lead agency that's been involved in a lot of the activity that you have, there has been the Environment and Energy Agency for the state of Nebraska. So they, they have been kind of on top of these things. And we're not a regulatory group, of course, but we do try to inform and educate where we can, such as moments like these when we do have questions about, you know, different applications and different happenings and issues within the industry. So I have not had to do anything extra.

**J. CAVANAUGH:** Great. Thanks.

**BOSTELMAN:** Senator Moser.

**MOSER:** Do most the ethanol plants produce food grade products?

**REID WAGNER:** No, for Nebraska in particular, we actually mostly produce fuel grade ethanol. For a bit of time during the pandemic, a couple locations we're working to create USP grade hand sanitizer, grade ethanol. We have no beverage producers at the moment.

**MOSER:** Oh, I think, doesn't the, well, of course, this may not be something, you know, but I think they make corn syrup at the ADM plant in Columbus, so that's a food product.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**REID WAGNER:** Yeah, that would be the distinction between a wet mill versus a dry mill operation. Wet mill operations do create refined sugars that you would see like fructose or different sucrose, those sorts of things. And that happens with ADM in Columbus and also with Cargill in Blair.

**MOSER:** So it's not going to kill the cattle that eat distillers grains any more than it kills the humans who drink soda with corn sugar in it, so. I've got even a crazier question. So,

**REID WAGNER:** Go ahead.

**MOSER:** Yes. So if we're trying to get rid of carbon and sequester it, rather than pipe it from the ethanol plant to someplace where they inject it in the ground, why not just concentrate the CO<sub>2</sub> where the injection point is and just take it out of the air? It doesn't have to be the same carbon dioxide that was generated at the ethanol plant. If you're getting rid of it somewhere, it would be kind of like carbon credits, you know, where you.

**REID WAGNER:** Sure. You're kind of knocking on the door of one of the really most exciting parts of what the Department of Energy at the federal level has been kind of looking at, too, which is carbon utilization too. So pulling that CO<sub>2</sub> out of the air and possibly even converting it to higher value products, whether that's, again, another kind of fuel or if that's a different kind of chemical, maybe using it to make my suit jacket or yours that you're wearing today. Those kinds of chemistries are beginning to take hold and we call that carbon utilization. And I'll kind of call back as well to a little bit of the referral to carbon sequestration, which LB650 passed, I think that was 2021 or 2019 maybe. I'm trying to get my ducks in a row on the years, but it does allow for the geologic sequestration actually with Nebraska geology, specifically in areas that would be designated for, by our oil and gas commission. So they're able to look at it and say, well, maybe you could do it right in your backyard too. You could pull that CO<sub>2</sub> down and store it beneath the ground at your facility, or if there was a project to come along, and you can utilize it for something else. So there's a lot of different uses coming through.



\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**MOSER:** All right. Thanks a lot.

**BOSTELMAN:** Any other questions from committee? Seeing none, thank you, Mr. Wagner.

**REID WAGNER:** Thank you.

**BOSTELMAN:** Other proponents for the appointment, reappointment of Bradley Bird to the Nebraska Ethanol Board. Good afternoon.

**DAWN CALDWELL:** Good afternoon, Chairman Bostelman and committee members. My name is Dawn Caldwell, D-a-w-n C-a-l-d-w-e-l-l. I'm the executive director at Renewable Fuels Nebraska, the statewide trade organization 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 states. Our 24 ethanol plants, as Reid said, can produce 2.6 billion gallons of ethanol annually, second in production only to Iowa, sadly, and we are proud that Nebraska's ethanol industry contributes about \$4.5 million annually to our state's economy. I'm here today to testify in support of the reappointment of Bradley Bird to the Nebraska Ethanol Board. Renewable Fuels Nebraska appreciates being able to work lockstep with the Nebraska Ethanol Board. I personally sit in the Ethanol Board meetings and see firsthand the level of engagement and sincere thoughtfulness that is portrayed from the members as they consider research projects, promotional opportunities and educational endeavors. Having a person at the table representing those who are essential and plan upgrades, installations and repairs is incredibly valuable. They have a genuine interest in long-term viability and success of the ethanol industry as the labor group that assists in all of that. And they help the farmers and industry in the room understand opportunities and challenges as projects are considered. Most recently they have had to help keep us all aware of the many supply chain issues that may delay the projects that we all wish were getting completed. On behalf of Renewable Fuels Nebraska, thank you in advance for your positive vote to reappoint Bradley Bird to the Nebraska Ethanol Board, and I am glad to answer any further questions. You guys have been good and now you have my mind thinking about carbon and the Golden Triangle in Nebraska. And so since we have the gold already, perhaps we can just create a way to

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

make those carbon into diamonds and we have Nebraska jewelry, so. If we're going to dream while we're in here.

**BOSTELMAN:** And with that.

**DAWN CALDWELL:** Yeah. Yeah. Any other questions?

**BOSTELMAN:** Thank you. Are there any questions from committee members?

**DAWN CALDWELL:** All right. I'm glad you guys can't agree with all of them. Thank you.

**BOSTELMAN:** Thank you for your testimony. Is there anyone else who would like to testify as proponent for the reappointment of Bradley Bird to Nebraska Ethanol Board? Any other proponents? Seeing none, anyone like to testify in opposition to the reappointment of Bradley Bird to Nebraska Ethanol Board? Any opponents? Seeing none, anyone like to testify in the neutral capacity? Seeing none, that will close our hearing on the reappointment of Mr. Bradley Bird to the Nebraska Ethanol Board. Next, we'll open the hearing on Michael Thede to the Nebraska Ethanol Board for reappointment.

**MICHAEL THEDE:** Good afternoon.

**BOSTELMAN:** Good afternoon.

**MICHAEL THEDE:** Thank you. Senator Bostelman and members of the Natural Resource Committee. My name is Michael Thede, M-i-c-h-a-e-l T-h-e-d-e. I'm the general ag rep, representative to the Ethanol Board. I'm sitting here. I think this is my fifth appointment to the board, so I've probably been on the board a little bit longer than most of the, most of the other people. So I farm in Palmer, Nebraska. Farm in Hall, Howard, Nance, Merrick Counties, a little bit in Holt County. I went to the University of Nebraska, graduated with a, with a major in ag economics. My wife and I farm there as, as I said, in Palmer Nebraska and married to my wife Jean for 26 years. We have four children. Our oldest is an accountant, recently graduated from Hastings College. Our two middle ones are attending University of Nebraska at Kearney and the University of Nebraska in Lincoln. And our youngest one is 14. He's still in the house, so we get to see him every day. So I've spent

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

20 years now on the board, have got to see a lot of changes in the ethanol industry from when I came on. We went through a big process of, of the build out of the industry here in the state. I don't remember how many ethanol plants were actually producing ethanol when I joined the board, but it was a handful. And so I got to witness that, work through that. Some of the challenges with that and and now we're kind of on to a little bit different, a different chapter in the ethanol industry here. It's exciting. I've really enjoyed my turn on board, am looking forward to the, to the future with the Ethanol Board and where it's going. One thing I wanted to touch on that I think probably Reid and, and the others weren't around on the board when I was, the Ethanol Board, probably around ten years ago, somewhere in there, eight, eight years ago. I can't remember exactly where we were struggling a little bit with where, you know, as these all these ethanol plants got built out. And, you know, we had some discussions within the board as to, you know, what's our role. We've, we've got a lot of ethanol plants here. We've, we've, we've done this, you know, and so where are we going? And I think through a lot of, a lot of looking at where we thought the industry was going and a lot of just self-analysis of the board as to what is the continuing role of the board. I think maybe Senator Cavanaugh was kind of touching on this a little bit in in his questions. And we really saw that the the next stage of the, of the industry was some of these additional products, some of the newer products that were coming out and some of the direction that we really, really saw that there was probably even a bigger need for the board because it became multi. It seems like we're dealing with a lot more, a lot more subjects now than when I first came on. We were dealing with where are we going to put a plant? Is this a good spot and how do we get it built? That was kind of our job. And so the board is, is filling that role, I think very well. Our staff is, is doing a great job. And I've really enjoyed watching Reid as he came on the board and has done a great job for us. And we still have our same staff before, before that we've always had. And so I've really enjoyed my time on the board. So I take any questions from anybody that, try to answer as best I can.

**BOSTELMAN:** Great. Thank you, Mr. Thede. Are there any questions from committee members? Senator Cavanaugh.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**J. CAVANAUGH:** Thank you, Chairman Bostelman, and thank you for your service and willingness to continue to serve. So you've been on the board for a while. You've seen the development of the industry. Is there room for more plants in Nebraska? Are we at capacity? What's that kind of market look like for that?

**MICHAEL THEDE:** I think there, there probably could be some room for some more plants in the state. You know, you have to weigh, you know, all the feed and all of the different ways. When I, my particular farm at Palmer, when I pull out of the driveway with a truckload of corn, I have nine ethanol plants within 50 miles of my, of my place. So there, my, my personal experience is maybe a little different than some other peoples within the state, but there's probably some areas that there would be the ability to put some other plants if the economics and the environment and they're all that, all played out that it would work.

**J. CAVANAUGH:** And does the board work on bringing in new plants or any of that kind of development of the industry on that side?

**MICHAEL THEDE:** We facilitate that. We really work a lot with trying to get individuals information. You know, how would you do, go about do this? A lot of times, the Ethanol Board is a place that somebody may call the first time. You know, how do we do this if we if we want to do this? And, and so we tend to facilitate. We tend to be, we've worked very closely with numerous different Governors' Offices over the years and when they call, they want to know. And the Legislature, you know, they want to know, you know, can you get us some information on this subject and that subject? And that's a lot of the role we fill is, is providing information and facilitating development of the industry. We don't necessarily go out and actively recruit people to build plants, but.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Senator Jacobson.

**JACOBSON:** I guess I have a couple of questions. Number one, I guess I would maybe you could speak a little bit to, it seems as we look at rather than numbers of new plants, it's really the increases in

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

efficiencies of the existing plants and the, and the greater capacity that's being created and better byproducts and more byproducts that are being generated from the existing plants are there. I know the Aurora facility, they've recently entered into an arrangement with KAAPA, and I believe that will be significantly more capacity coming out of that particular facility, which I'm glad to hear, because they're going to be bidding stronger bids for corn and needing more corn to go through that plant. I know I got the same situation. We can go to POET in Fairmont, or we can go to Aurora and we can also go to Hastings. So we got three quality plants that are nearby. But I think it seems to me that, that increasing capacity is going to be a big focus. Can you speak a little bit to what might be happening yet in other byproducts that we might be seeing from the plants, or are we seeing more of a push in these existing plants to do that? Or is it more capacity focus at this point?

**MICHAEL THEDE:** I think it's a little of all of that, actually. It kind of depends on the plants and their focus and the company that owns them. I mean, it seems like there's some that are, that move towards that. Let me back up. There's quite a few that have went down the road of trying to efficient, make their plants more efficient as they, as they built the plants and they got them running. You know, they would quickly see where there was bottlenecks in the plants. And so those, and those have all been addressed now. They have tended to move to more building efficiencies into their systems. I would suggest that most of the ethanol plants in the state are running in excess of what they call nameplate capacity, mostly because of those reasons, they've, they've made them much more efficient. There are numerous things that we see that and, and I can't speak to any specific ones, I'm not real technical in the, in the chemistry of everything. But there's, it seems like in our board meetings we have numerous new products that are being talked about and you know, some of them, some of them don't get off the ground. But there's, as Reid alluded to, just lots of different things that are, that seem to be popping up, that are going to be potentials for some of these plants to be able to take advantage of. Every plant seems to be designed a little bit different. And so some of those things don't fit well with one plant, may work for another plant. So I don't think you'll see, you know,

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

specific products that just move across every plant in the state. But there'll be things that certain plants take on that, that are enhanced there. They're, they're revenue streamed. I think you made a comment to Senator Johnson earlier, or Jacobson, sorry, about that the ethanol may become one of the, maybe more of a byproduct of the process. And I would kind of agree with, with that statement, as we've, as I've seen this progress, as we've gone forward. Obviously every one of them is going to be producing ethanol, but there's some very high value products that can come out of it. The process of making ethanol and I think that's where the industry seems to be gravitating towards, so.

**BOSTELMAN:** Senator Fredrickson.

**FREDRICKSON:** Yeah, thank you Chair Bostelman. So, first of all, thank you for your service. I think you mentioned over 20 years or around 20 years on the board.

**MICHAEL THEDE:** Thank you.

**FREDRICKSON:** And I think because of that, you sort of bring a bit of a unique perspective to the industry. You've seen a lot of advancement with ethanol. And I think kind of given that, I'm curious to hear what you see as, what you believe the board's priority should be in the next four or five years.

**MICHAEL THEDE:** So I would say that, number one is, is helping facilitate new businesses that are trying to co-locate bioethanol plants with maybe the possibility of producing some of these unique new products that are, that people are looking at. A lot of it is, you know, on the cutting edge and so sometimes they, they don't, they don't fulfill what we hope they will. But I think if as best we can facilitate those things, providing, you know, technical advice and, and just putting the right people in touch with the people that we know that, you know, the board has significant contacts around the state for all these years. And so I think that's where I see our, our role trying to help companies that are trying to locate in the state. You know, they may be new companies, they may be existing companies just trying to add, you know, a Cargill or ADM or something, just trying to add to their, their process.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**FREDRICKSON:** So many ways like a facilitator or learn enabler.

**MICHAEL THEDE:** That's, that's been the, that was the the initial role of the board. And I think that continues to be the role of the board. It's just focus has changed a little bit. Whereas when I first came on, as I said earlier, it was more of a focus of helping facilitate siting plants. And we did that. You know, there's a lot of plants that we, people that we worked with that wanted to site plants that never came to fruition. And there's plants that, that we helped them and they're producing today. And so I think that will continue to be. But instead of siting plants, not that we couldn't do that and we would be, you know, more than willing to try to help with doing that, the focus seems to have shifted a little bit and to helping facilitate some of these maybe, I don't necessarily want to say they're smaller companies, but they work in a little more of a niche, producing specific, you know, different products that you can pull out of the distillers grains or the, or the, the ethanol itself on those kind of products, so.

**FREDRICKSON:** Thank you.

**MICHAEL THEDE:** Thank you.

**BOSTELMAN:** Other questions from committee members?

**JACOBSON:** I just have one last one.

**BOSTELMAN:** Senator Jacobson.

**JACOBSON:** I think, again, it's probably safe to say that, that really when you look at siting of plants, having access to rail is critically important to be able to move the, the ethanol out, having some access to feedyards within some proximity to be able to move the distillers product at least the wet distillers in particular, and then at the same time being in a position to where you can access the raw corn. And I think the, the drought this summer has caused some of the western plants to come under some real pressure in order to be able to access corn and probably having rail service to be able to bring more grain in is going to be a piece of it as well. And so we're

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

experiencing some of that, I think, as we start looking at some of the challenges on siting. But, but I am very encouraged by what the work that's being done. I appreciate the work you're doing and have done to really help promote the industry. So thank you.

**MICHAEL THEDE:** Thank you.

**BOSTELMAN:** Other questions, comments? Seeing none, thank you for your willingness to serve. Thank you for coming in today, Mr. Thiede.

**MICHAEL THEDE:** Thank you.

**BOSTELMAN:** I'd ask if anyone would like to testify as a proponent for the reappointment of Michael Thede to the Nebraska Ethanol Board. Please step forward.

**REID WAGNER:** All right, I'm back. Good afternoon. Natural Resources Committee. Again, my name is Reid Wagner, R-e-i-d W-a-g-n-e-r. Again, I'm the director of the Ethanol Board. Very happy to be a proponent for the reappointment of Michael Thede to the Nebraska Ethanol Board. As I mentioned before, he brings a wealth of experience being one of our longest term board members currently on, on the board. He represents one of four positions that must be actively engaged in growing a crop. With Nebraska Ethanol Board structure we, in the past, we've had four board members kind of representing corn, wheat, sorghum and then general farming, and we have the general farming category to really cover kind of that point of, as was alluded to earlier, the Golden Triangle, which is kind of the interplay between corn, the livestock industry and the ethanol industry. Of course, utilizing corn, providing that cents per bushel value back and then processing it and having those distillers grains to give to our very vibrant beef industry as well. I did strategically hold on to a question from the previous testimony, which is the question was, do we do a lot of wet versus dry distillers grains? We do quite a bit. Of course, there's the mix, as Brad had alluded to. Lately, especially in kind of some of the more western areas, we do a lot of the wet and modified distillers and being connected to feedlots directly and being able to plot, really supply an extremely advantaged feed for the cattle across the state. Mike brings a wealth of knowledge and actually the full



\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

development and integration of ethanol into our agricultural space like that with 20 years, this is really how it's been brought forth and developed. So I just would love to recommend him for reappointment and then would welcome any questions from you guys.

**BOSTELMAN:** Thank you, Mr. Wagner. Are there questions from committee members? Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. Thank you for your testimony again. When you listed the components that could be used to make ethanol, at one time, switchgrass was going to be the great savior. Do we still have research going on or we've looked at that and just set it aside.

**REID WAGNER:** Yeah. The question is a little bit on cellulosic ethanol is kind of a catchall term for that, whether it's wood waste, switchgrass, corn stover, you name it. There is a significant amount of research that has been going on. A lot of the hurdles that accompany some of those things are the logistics of bringing those crops to site to be able to process. You're asking that farmer to go through and essentially do a second harvest of their corn stover, bring it in, and then some of the pretreatment things are difficult, but we have made strides in that. Ethanol producers are much more efficient in using their own corn kernel, kernel fibers and kind of a cyclic process to use as much of the kernel as they possibly can. And so in some of those efficiencies, we've kind of been able to claim some of that cellulosic space as kind of discussed, I suppose probably across the last 20 years. Some of those advancements are notable. I think for us in Nebraska, the greatest opportunity would be to use some of those byproducts that of course are used in feed. Corn stover is also, has plenty of applications, but possibly one use could be the generation of ethanol going forward.

**BRANDT:** All right. Thank you.

**BOSTELMAN:** Other questions from committee members? Seeing none, thank you for your testimony.

**REID WAGNER:** Thank you.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BOSTELMAN:** Next proponent for the reappointment of Michael Thede to the Nebraska Ethanol Board.

**DAWN CALDWELL:** Hello again. Dawn Caldwell, D-a-w-n C-a-l-d-w-e-l-l, executive director at Renewable Fuels Nebraska. And to save, save the repeat of all this stuff, we, we really encourage the reappointment of Mr. Thede on the board. I actually was in college with Mike. We shared a math class together and drove to math class together and I felt safer on the days that I drove to math class, I will say that, versus him driving to math class. But regardless, we've both come a long way in 25 or 30 years, and I'm really proud to have him serving on the Nebraska Ethanol Board in that full farm capacity. To address a few things that have been talked about, just that wet mill, dry mill discussion and the unique things about a couple of the wet mills. And I'm going to speak particularly to ADM at Columbus. They chose their site not because of corn grown in the area, not because of roads in and out of the area, not even because of the railroad, though that was very convenient, but it was because of how many feedlots were in the area and they would have that access to the feedlots with their distillers grain so as to have to drive very little of it, utilizing less natural gas in the process. And that's really important for the ethanol plants to be able to sell as much wet as possible versus dry to keep their carbon score lower and have those better markets for the ethanol leaving the plant. A unique thing focusing on that plant that I really love thinking about food grade items, is the corn starch that's made at that plant. And that's a really wonderful export from Nebraska. We talk about how many Nebraska commodities get exported. One from there is the corn starch going to Mexico to be utilized in making Corona beer. So if you love a good Mexican lager with a lime in it, very possibly part of that originated from Nebraska. So that's a fun fact for you all to share as you tout the ethanol industry right here in our state. And one more thing, I want to address that Senator Jacobson brought up regarding rail and regarding corn and the drought. It is very serious for those western plants. And we do have a testifier here later for Director Macy that, that works in one of those western plants or runs a western plant that has that very challenge right now. And I will speak to a further west plant, Bridgeport, who told Senator Fischer back in September already, they

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

have not taken in five trainloads of corn his entire time having that ethanol plant. They anticipate as many as 35 this year because there is not enough corn in the region due to the drought. So just for awareness for that situation out in that region.

**BOSTELMAN:** OK. Thank you for your testimony.

**DAWN CALDWELL:** Question?

**BOSTELMAN:** Questions? Senator Jacobson.

**JACOBSON:** I just have one quick question. If it would be possible next time you testify, if you could bring samples of all the byproducts then.

**DAWN CALDWELL:** I will see what I can do. (LAUGHTER)

**JACOBSON:** Thank you.

**BOSTELMAN:** That's not allowed. (LAUGHTER) Sorry. Senator Slama.

**SLAMA:** Perhaps a field trip for the Natural Resources Committee.

**BOSTELMAN:** We could that, yeah.

**SLAMA:** I think a field trip is in order. I would love to host you on a field trip.

**HUGHES:** I love field trips.

**BOSTELMAN:** Any other comments or questions from the committee? Seeing none, thank you for coming in and testifying.

**DAWN CALDWELL:** Thank you.

**BOSTELMAN:** Any other proponents? Please step forward. Seeing none, anyone like testify in opposition to the reappointment of Michael Thede to the Nebraska Ethanol Board? Anyone in opposition? Seeing none, anyone in neutral capacity? Seeing none, that will close our hearing on the appointment or reappointment of Michael Thede to the Nebraska Ethanol Board. Thank you very much for coming in. Next, we

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

will open our hearing for the Nebraska Department of Environment and Energy for Director Jim Macy. Afternoon, Director.

**JIM MACY:** Good afternoon. Senator Bostelman and the members of the Natural Resource committee, my name is Jim Macy, spelled J-i-m M-a-c-y, address 245 Fallbrook Boulevard in Lincoln, Nebraska. I'm the Director of the Department of Environment and Energy. I've served in this position for eight years, and I'm seeking your support to advance my confirmation as Governor Jim Pillen's appointee. Thought I'd give you a little background about my history. This is my 38th year as an environmental professional. Started out in Missouri with the soil and water conservation program for the Missouri Department of Natural Resources. I advanced to being a program manager in Kansas City field office for all the environmental programs Missouri offered for about 15 years. Went down to administer a new division that encompassed all the field office, and the environmental laboratory. Did that for about four years. Had a little transition in-between two Governors and ended up in compliance and enforcement for drinking water and as an appointee in that area, I ended up being the receiver for a very small community in southeast Missouri, restoring their critical drinking water and wastewater infrastructure. And then I closed out after being successful in that position. I managed the financial services component for the state revolving fund for the last two and a half, three years of my career at Missouri, retired there, did a little consulting for about a year and a half. Saw the job for this position up here, interviewed with the Environmental Quality Council and Governor Ricketts. So here I am again eight years from that point. Married, my wife, Lisa, has been a career nurse for 35 years. We have two daughters. One's out of the household. Very proud of her accomplishments as a interior design architect that's board certified. I'm very proud of my second daughter, who is working to be a nurse and hopefully get out of my basement in about six more months. So a very successful family life and been married for 30 years, very proud of all my family. And, and I'm also proud of the work that we do at the Environment and Energy Department. I'm really proud to be a part of a team that works together and we do some amazing things. Eight years ago, I set what I would think three ambitious goals for the agency, providing exceptional service, focusing on compliance assistance and

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

demonstrating accountability through performance measures. Like to just share with you a couple of the things that we've done over those eight years. Currently, there's no backlog permits in any of the construction or operating permit programs within the agency. Over the last eight years, we've conducted 26,134 inspections. Of that, 2,000 letters of noncompliance, formerly are NOBs. Most facilities returned to compliance in a very timely manner. For those that don't, we've had 183 formal enforcement referrals over that time. Of those 142, we wrote compliance orders on administrative orders on, and the other 41, the Attorney General did. So we've got about 9 percent of the letters of noncompliance that have had additional enforcement. But overall, we maintain that we've had about a 99 percent compliance rate or about 1 percent have to be told what to do. So I think that's pretty good. During the floods of 2019, this illustrates somehow I think we served the public very well. We can, we sampled 770 private wells with the help of EPA and their lab assistance. We initiated a brand new program that provided 0 percent interest rates to those communities adversely affected by those flood issues, and that served as a bridge loan between when the community could get back up on its feet and receive some FEMA assistance. During COVID, we kept the doors open to the public. We conducted inspections, performed the vital service work that we do every day. Our team was the only environmental team in the four state area that kept the doors open during the pandemic. So I'm proud of the work they did there and proud of what they did during that time frame. We report our metric measurements are what we do monthly. We put that on our website very proudly. We've initiated a rapid response team for new permit applications, and we coordinate that with the Department of Economic Development and other special projects that focused on compliance assistance or quality reviews in a timely manner. So we've worked with companies like Scoular in Seward, KAAPA Ethanol in Ravenna. They've had several expansion projects. Lincoln Premium Poultry in Fremont that solved both the community waste problem and provided new opportunities in the market area for our family farms, Heartwell Grain, and a biodiesel plant in Hastings that combines work with both Cargill and Lowe's. Duonix in Beatrice, another biodiesel facility, and then Monolith in Hallam. It's carbon black and fertilizer plant. Since the inception of the Dollar and Energy Savings Loan program that's part of the energy component, in

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

1990 we've helped over 30,000 energy saving projects, financing over \$385 million in that program. And then the Weatherization Assistance program that started in 1977, about \$227 million been provided to make energy, energy efficient improvements to over 70,000 homes. We reorganized in October of 2020, about the same time we were moving into a new facility, consolidating four different buildings into one area at Fallbrook. So we moved from traditional stovepipes of air, land, water, drinking water and energy divisions into inspection and compliance, monitoring, remediation, planning and aid, engineering and permits, and the 404 drinking water, well standards and groundwater program areas. What does this do? Well, it helps both our teams and those that we regulate to look at the world through a more holistic lens. So when you come in, if you bring in a new client or expanding in business opportunity, we sit down and look at you from all the permitting aspects of water, air, land, etcetera. And it helps both our team then become better professionally. A side benefit of that is when I started in eight years ago, we only had nine engineers that were professional engineers. We've got 30 engineers now and 15 of those are professional engineers. Those nine passed their boards on the first time. So having the experience, real world experience to look at things more holistically helps everybody and both our team to help keep our team at the agency and then it helps the people out there that we serve. Our responsiveness, time frames have improved. An example is the drinking water and wastewater engineering programs. Used to be the average in 2018 was about 22 days to receive a permit. Today, in 2022, timeframes are 16 days. That's about a 27 per cent increase. And we don't sacrifice quality for that increase in time. So since my appointment, I've been engaging in Nebraska leadership all across the state. I believe in team management approach. I think state officials should work together with local people to solve local problems. I believe we should be a work-with our regulated community. I believe that we should assist small businesses in understanding what they need to do to be in compliance. I use a team approach in recruiting businesses to Nebraska by educating them to what the environmental permitting requirements are and then their obligations. My goals, if I'm confirmed, I'd like to continue the foundational work of these goals that I spoke of exceptional service, compliance assistance and performance measurement. And additionally, I'd like to

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

plan to develop a comprehensive statewide engineering analysis of water quality and community systems and the private wells to improve our water quality and help ensure Nebraskans are able to have safe drinking water. I'd also work to modernize the way data is collected and transmitted to the agency and embrace any new technology that allows Nebraska agriculture and industry partners to be more effective, efficient and sustainable, sustainably focused. I'll continue to work with local leaders to solve problems. We will treat the regulated community with honesty, integrity and implement common sense solutions. We will continue our transparency in how we regulate and we will be firm but fair in enforcement. Thank you for listening to that today, and I'd be happy to stand for any questions.

**BOSTELMAN:** Thank you, Director Macy. Could you speak to your Quality Control program?

**JIM MACY:** Pardon?

**BOSTELMAN:** Quality Control program. Could you speak to that?

**JIM MACY:** Well, yeah. So when we issue a permit in, in any performance area, we socialize internally that that draft or that permit with those that have to implement those regulations. And there's agreement on the parameters of that permitting process before that permit is issued.

**BOSTELMAN:** Thank you. Could you also talk to me or talk to us a little bit about your work with EPA?

**JIM MACY:** We have a healthy relationship with the EPA. Sometimes that ebbs and flows between administrators and administrations. But over time, I'd say we have a very dynamic relationship to where we can sit down with any program area of the EPA, Region 7, talk through difficult issues and come to an agreement on, on what each agency will do and will not do and how we work together. For the 2019 flood issue, EPA was a huge partner in helping us set up that environmental sampling for the drinking water program. We used their lab to do those analysis and believe still to today we use part of EPA's regional lab

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

in, in Kansas City to sample for free, some of our program areas. So, great relationship.

**BOSTELMAN:** OK. Thank you. Are there questions from committee members? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you, Director Macy, for your willingness to continue serving and willingness to be here. I'm going to, you know, for the record, you and I sat down and talked for a long time, so don't need to rehash all the stuff we've talked about. But I do appreciate that and I appreciate you answering all my questions, but to that point, you know, for future bills or LRs come from this committee, I assume you're going to continue with the same policy of subjecting yourself to our aggressive questioning that this committee seems to be known for at this point. So I just ask you, if you continue in your next term of service, will continue with that policy.

**JIM MACY:** Happy to sit down with any committee member or any senator privately or publicly and answer any questions you have.

**J. CAVANAUGH:** I appreciate that. You and I have had our disagreements, colorful conversations, arguments, however you want to say it, and I appreciate your continued willingness to even speak to me. (LAUGHTER) So and the only other question, obviously, there's a lot of things we could talk about, but like I said, I don't want to belabor the point. I was just reading these letters here, you got some nice support letters from industry. And one of the things we talk about is how great it is to work with the department and how easy you've made it. But, and what we, you and I have talked about is another perspective of the department is kind of being that bulldog in fighting for people. And you said about 99 per cent of folks are in compliance all the time, that 1 percent, that makes a huge difference to those people that that 1 per cent affects. And I just want you make sure that we're on the same page that, you know, the department and I know we gave you guys some more powers that you haven't probably used yet. But looking forward, I just want to make sure that your perspective of the department going forward is one of, you know, working with it, with



\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

industry but make sure when it gets to, when it becomes necessary, that you will use the full power of the department.

**JIM MACY:** We follow the rule of law. We follow our statutory authority, and we follow the regulations that those statutes provide our agency to operate with. And absolutely, we do not blink at that at all. So if you want to work with us and come into compliance, we are happy to open the door and work with you to a point. And then there's a point when we decide that we've had enough time to work with and it's time to use another tool in the toolbox. And that's, that's part of the business. We have to do that. We have to follow the law. We, we can't just wing what we want to do. We're given a certain amount of authority and, and we are, we are duty bound to the citizens of Nebraska to follow the law. And we happily do that.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Other questions from committee members? Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. Thank you, Director Macy, for testifying today. I'd like to compliment your department. In the past, I have worked with DEQ here and your department is very friendly to producers out there that deal with those specific situations in getting us background information. So I want to throw that out there. I like people that have experiences, even bad experiences. And I guess we talked about this, too, when we talked to my office. What would you do different about Mead or what did you learn from the Mead situation?

**JIM MACY:** Well, Mead, Mead again is, is a one off instance. And I don't know if I want to get into too much into how we make litigation decisions, but we treated Mead as we did, would any other industry or responsible party and how we dealt with, with their incremental compliance issues. And at a point we, we decided that we'd had enough of working with that facility and made a referral.

**BRANDT:** All right. Thank you.

**JIM MACY:** And we'd do that with any other industry. And I can tell you we were timely in the referral making process and how we decided to

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

litigate and that, that was another tool that we had in the toolbox that we had to use.

**BRANDT:** All right. Thank you.

**BOSTELMAN:** Could you speak to, you've had other voluntary clean ups. Could you speak to, give us an example of one or two of those, how that worked?

**JIM MACY:** Yeah. Probably within the first several months of my original appointment, we had the community of Beatrice, Mayor Stan Wirth. We had a meeting in our office where the EPA that probably could have used some communication improvements, advised that particular community that they were about ready to enter into a Superfund site. And the way the, pardon me, the way the community found that out was through a federal public notice in their newspaper, not a letter to the mayor, not a phone call, but they found in a notice in the paper. So the mayor wasn't really happy about that. And we had a meeting with the responsible parties trying to develop an agreement on how to pursue cleanup in that area. And the mayor did ask and Tobias, as his city administrator, asked if there was anything that you all have that you can help us with. And I'd worked with the voluntary cleanup programs in, in Missouri and knew they were very similar to Nebraska's and I said, well, sure. You know, I think we could, if you want to enter into an agreement and figure out how to clean this up, they had five or six different responsible parties. The community bought into a bad land purchase that didn't have full due diligence performed, and they were unwillingly or unwittingly backed into a pretty significant groundwater and soil problem along the Blue River. So they quickly made a city council ordinance adoption. They wrote a \$5,000 check to the agency for the materials that we need to enter into a BCP program and they completed that in about two and a half, or year and a half. So they wanted, they didn't want the stigma of a Superfund site in their community and the VCP program worked very well in that case. Had other cases over in Ogallala, where a site has been turned into, I believe, a daycare facility. Just all around the state there's 20 or 30 different, Pinnacle Bank arena here in this town. That was a huge VCP program, so a lot of successes. It does work. We're very proud of that program.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BOSTELMAN:** OK. Thank you. Any other questions from committee members? Seeing none, thank you, Director, for coming in today.

**JIM MACY:** Thank you.

**BOSTELMAN:** Would ask anyone who would like to provide a proponent for the appointment of Director Macy to the Nebraska Department of Environment and Energy to please step forward.

**SAM DRINNIN:** Afternoon. Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. I am Sam Drinnin, S-a-m D-r-i-n-n-i-n. I serve as the Chair-Elect for the Nebraska Cattlemen Natural Resources Committee and own a feedyard near Columbus. Nebraska Cattlemen supports the reappointment of Jim Macy to be the Director of Environment and Energy. Director Macy's goals for the Department of Environment and Energy are providing exceptional service, focus on compliance assistance and demonstrate accountability through performance measures. Over the past eight years, we have witnessed Director Macy carry out these goals and service to Nebraska's beef cattle industry while being mindful of his duties to the citizens of the state. Director Macy has led the department by example, being transparent with stakeholders, industry leaders and constituents. He always keeps an open line of communication with the agriculture industry and takes the common sense approach on ensuring compliance with regulatory, regulations and policies. The agriculture industry faces vital discussions ahead on topics of water quality, energy generation and permitting regulations. Director Macy has proven he is the individual with the background and experience to handle these important topics ahead. We appreciate the department's transparencies under Director Macy's leadership. He has proven to be a leader who cares about all parties involved and will continue to use common sense practices for the future of Nebraska's environment. For these reasons, the members of the Nebraska Cattlemen urge you to confirm Mr. James Macy. Thank you for your time and I'd be happy to answer any questions.

**BOSTELMAN:** Thank you, Mr. Drinnin. And are there any questions from committee members? Seeing none, thank you for coming in today. Thank you for your testimony. Next proponent. Good afternoon.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**TONY LEIDING:** Good afternoon, Chairman Bostelman and committee members. My name is Tony Leiding, spelled T-o-n-y L-e-i-d-i-n-g. And I serve as the president of Trenton Agri Products, an ethanol producer in southwestern Nebraska, and also as the president of the Renewable Fuels Nebraska, a state trade association advocating for renewable fuels here in Nebraska. I'm here to testify in support of Governor Pillen's appointment of Jim Macy as the Director of Nebraska's Department of Environment and Energy. I have known Director Macy for several years and have worked with him both as a part of the regulated community and as a board member of Renewable Fuels Nebraska. Director Macy did a fantastic job during his tenure as the director of the NDEE under the Ricketts administration. He was willing to work with the regulated community to ensure compliance was attained and maintained. He made the DEQ and later the DEE, an organization that you could work with and approach with issues instead of trying to keep them at arm's length. With that being said, Director Macy and his team ensure, or with that being said, Director Macy and his team ensured the regulated community upheld the conditions of their permits. I can personally attest to this as we were issued an administrative order and another different notice of violation during this period. While these events are never fun for a business, what impressed me most was how the NDEE worked with us to help attain compliance and create a clear path forward. Another example of how Director Macy's NDEE helped grow business in Nebraska was their endeavor to meet with the regulated entities prior to commencing a project to ensure the construction and operating permit process was smooth and efficient. These meetings helped RFN member companies complete projects more efficiently and on schedule. I can also personally attest how beneficial these pre-project meetings are to permit holders. This kind of customer service from the NDEE provides businesses more certainty when evaluating new projects and potential capital expenditures that will ultimately benefit the local communities and the state of Nebraska. Trenton Agri Products and Renewable Fuels Nebraska's member businesses are excited to work with Director Macy to ensure compliance metrics are met while continuing to grow the renewable fuels industry in Nebraska. We thank you in advance for your positive vote to appoint Jim Macy as Nebraska's Director of Environment and Energy. Thank you, and I'm happy to answer any questions.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**BOSTELMAN:** Thank you, Mr. Leiding. Are there any questions from the committee members? Seeing none, thank you for your testimony.

**TONY LEIDING:** Thank you, everyone.

**BOSTELMAN:** Appreciate it. Any other proponents? Please step forward. Good afternoon.

**JOHN HANSEN:** Good afternoon, Mr. Chairman, members of the committee. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union. And so if you think about the primary responsibilities of the Nebraska Department of Environment and Energy, I have more than enough opportunities to interact with the director in both arenas and have done so and would report that we have a very positive working relationship. And for somebody like me who represents thousands of family farmers across the state, there's always going to be issues. And what you hope for is an open door and an open mind. And if there's a problem, you're able to talk to somebody and find out what the facts are and try to get things resolved and we've been able to do that successfully. His door has been open, and I would point out that a particular period of time that was really a crisis for our state was the 2019 floods and all the things that happened with that and the impact that they had on livestock facilities and, you know, the, just the nature of what was going on with overflows and all of those things that I thought that Director Macy did an outstanding job of using something that is kind of hard to come by sometimes in government. But he used common sense and a flexible hand. And, you know, people are are not responsible and certainly didn't go out of their way to cause problems. Who, who anticipates a 500-year flood? No one. And so I, we worked on a weekly basis with all the stakeholders, the different departments. And I was extremely impressed with what he did, how he went about it. And I appreciate his open door relationship that he has with the stakeholders. And yes, he enforces the law and that's what he should do. And I'm, I've had the opportunity to know and work with, I think, pretty much all of the directors of environmental quality and now the Nebraska Department of Environment and Energy since it was first formed. And I would I would tell you that in my opinion, Jim is a keeper.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

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

**JOHN HANSEN:** Thank you.

**BOSTELMAN:** Any other proponents? Please step forward. Good afternoon.

**ANDREW DUNKLEY:** Good afternoon again, Mr. Chairman, members of the Natural Resources Committee. My name is Andrew Dunkley, A-n-d-r-e-w D-u-n-k-l-e-y. I'm with the Nebraska Farm Bureau and once again, I'm here on behalf of Mark McHargue, who is our president, who is out sick, wanted to to say on our behalf, and on behalf of the Nebraska State Dairy Association as well, that we are in full support of the reappointment of Director Macy. We have had wonderful dealings with, with the director and he has been nothing but judicious and open to work with, always taking our call. It's going to be a really important couple of years here for, for water quality in Nebraska. And this is a large conversation and we're going to have many of these conversations that Jim has, has has really been communicative on with us. And we really appreciate that. And so we can't, we can't support his reappointment any, any stronger. So if you have any questions, I'm open to them.

**\*KELLY BRUNKHORST:** Dear Chairman Bostelman and members of the committee, On behalf of the membership of the Nebraska Corn Growers Association, I submit this letter in support of the nomination of James "Jim" Macy for Director of the Nebraska Department of Environment and Energy (NDEE). Members of the Nebraska Corn Growers Association has worked with Mr. Macy's during his tenure as director of NDEE within the previous administration and have felt he approached issues fair and balanced. Jim listened to concerns from different backgrounds, conducted his research, and relayed information based on facts and statutory policy. Additionally, Jim revised the permitting process that brought greater efficiency for value added industries in Nebraska. In closing, the Nebraska Corn Growers Association supports the appointment of James Macy to the position of Director for the Nebraska Department of Environment and Energy.

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**\*LASH CHAFFIN:** Dear Senator Bostelman and members of the Natural Resources Committee: On behalf of the League of Nebraska Municipalities, I would like to endorse the reappointment of James Macy as Director of the Department of Environment and Energy. From his first day in the position, Director Macy has been extremely vigilant in seeking out the input and expertise of Nebraska Cities. The League is very appreciative of his desire to ensure that the voices of our members are heard. Director Macy has also been very generous with his time and the time of his staff to participate in a wide range of educational training for municipalities on issues as diverse as drinking water distribution, wastewater treatment, air monitoring, solid waste management and energy efficiency. If you have any questions, please feel free to contact me at (402)-476-2829. Thank you for your consideration in Director Macy's appointment.

**LORI LUEBBE:** Chairman Bostelman and members of the Natural Resources Committee. On behalf of the Nebraska Soybean Association and the soybean growers we represent in the State of Nebraska, we support the re-appointment of Jim Macy for Director of the Department of Energy and Environment. Jim comes to the Department of Energy and Environment with years of experience in energy and environmental issues and understands the business of agriculture farming and ranching and what it means to Nebraska. As water quality discussions and renewable energy development is becoming a leading topic in our state, Jim engages with the agriculture community to see to it the issues are fully understood by all those involved and works towards solutions. We are confident Jim will carry out the programs within the NE Department of Energy and Environment with high expectations. We look forward to continuing our working relationship with Jim Macy.

**\*BECCA MARTIN:** Dear Chairman Bostelman and members of the Natural Resources Committee, Founded in 1865, Cargill's 155,000 employees across 70 countries work to achieve our purpose of nourishing the world in a safe, responsible and sustainable way. Every day, we connect farmers with markets, customers with ingredients, and people and animals with the food they need to thrive. However, as much as we are a global company, we are a local company. Cargill has deep ties to Nebraska communities where we have more than 4,000 employees working in diverse businesses across the state. Over the last eight years, as

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

Cargill has invested and expanded operations in Nebraska, we've seen first-hand Director Macy's steadfast commitment to the health and wellbeing of Nebraskans. Director Macy demonstrates a consistent and reliable approach in leading the agency. Cargill is confident Director Macy will continue to succeed in this role and urges full and fair consideration of his confirmation.

**BOSTELMAN:** Thank you for your testimony. Are there any questions from committee members? Seeing none, thanks for your testimony. Any other proponents? Any proponents? Seeing none, anyone like to testify in opposition to the appointment of Nebraska, Jim Macy to the Director of Nebraska Department of Environment and Energy. Any opponents?

**\*AL DAVIS:** Senator Bostelman and members of the Natural Resources Committee: The Nebraska Chapter of the Sierra Club stands in opposition to the appointment of Jim Macy to head the Department of Environment and Energy. Mr. Macy has served as the Director for a number of years. As a longtime director of the Agency, Mr. Macy must take responsibility for the disaster which has taken place at Mead, Nebraska with the AltEn ethanol plant. Time and again NDEE threatened AltEn with fines for their bad behavior. Time and again AltEn refused to comply with directives from the Agency, and time and again the Agency remained in a passive position while AltEn conducted its business virtually without opposition. Today pesticides have contaminated homes in Mead, reservoirs miles from the site and groundwater near the plant. Tons of pesticide coated seeds are still sitting onsite—as well as bags of pesticide contaminated biochar. And under a shell of concrete sit tons of wetcake saturated with pesticides and sitting on raw ground with no liner beneath them. There is still no answer as to how the tons of waste product will be managed, despite the fact that the plant has been shut down for over two years. While NDEE ultimately bears responsibility for the cleanup they are relying on the Seed Companies to manage the project. Suggestions made by NDEE about managing the contamination are sometimes accepted and sometimes ignored by the seed companies whose goals are certainly radically different than the landowners surrounding the plant or the people residing near the site whose health may be affected by the contaminants onsite. Yet NDEE acquiesces to the manufacturers rather than really guide the cleanup process.



\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

Leadership often requires hard choices and a firm hand. Mr. Macy seems to be more a cheerleader than a sergeant at arms. His failures at Mead make him unqualified to continue serving as the Agency Head at NDEE. Thank you.

**BOSTELMAN:** Seeing none, anyone like to testify neutral? Seeing none. For the record, we do have several letters of support from OPPD, Javier Fernandez; from ACEC [SIC] Katie Wilson; Kelly Brunkhorst from Nebraska Corn Growers; Lash Chaffin from League of Municipalities; Al Juhnke from Nebraska Pork Producers; Lori Luebbe from Nebraska Soybean Association; Becca Martin from Director of Government Affairs, Cargill. We have one opposition letter from Al Davis from Nebraska Chapter of the Sierra Club. This will conclude our hearing on the appointment of Jim Macy to the Director of Nebraska Department of Environment and Energy. Thank you all for coming today. I want to ask you all to please exit the room because I would like to have an Exec Session. Thank you for coming today.