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Natural Resources Committee
May 20, 2009

[CONFIRMATION]

The Committee on Natural Resources met at 1:00 p.m. on Wednesday, May 20, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on gubernatorial appointments. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tom Carlson; Tanya Cook; Deb Fischer; Ken Haar; Beau McCoy; and Ken Schilz. Senators absent: None. []

SENATOR DUBAS: I think we're going to go ahead and get started. Senator Langemeier is going to be a few minutes late, but we are on a little bit of a time schedule this afternoon, so we'll get things started and go from there. My name is Senator Dubas from Fullerton, and I am the Vice Chair of the Natural Resources Committee. I'd like to welcome everybody here this morning. To my left is Barb Koehlmoos, Committee Clerk. To my immediate left is Senator Ken Schilz from Ogallala. To my far right is Senator Tanya Cook from Omaha; Senator Tom Carlson from Holdrege; and Senator Deb Fischer from Valentine. The pages we have with us today are Jamie Myers from Stuart and Rebecca Armstrong from Omaha. Thank you. They're here to assist you if you need to pass anything out or need any help with anything. We're here today for a confirmation hearing for the Nebraska Ethanol Board, Mr. Galen Frenzen and Mr. Paul Kenney. I'd like to remind anybody, if you have your cell phones, please put them on silent or off. They do interfere with the recording equipment. Is there anything else that I've forgotten, Barb? [CONFIRMATION]

BARB KOEHLMOOS: I think you're fine. [CONFIRMATION]

SENATOR DUBAS: Okay. [CONFIRMATION]

BARB KOEHLMOOS: Oh, state your name and spell it for the record.
[CONFIRMATION]

SENATOR DUBAS: When you do come up, I would ask that you state your name and then spell it for the record, and we will begin this afternoon with Mr. Galen Frenzen. If you'd like to come forward, please. Again, just go ahead and state your name and spell it, and then just tell us a little bit about yourself. [CONFIRMATION]

GALEN FRENZEN: (Exhibit 1) My name is Galen Frenzen. Galen is G-a-l-e-n. Frenzen is F-r-e-n-z-e-n. I'm from Fullerton, Nebraska, and if you want to know anything about me, ask Annette (laughter). There was your chance, Annette. [CONFIRMATION]

SENATOR DUBAS: I'm not done with you yet (laugh). [CONFIRMATION]

GALEN FRENZEN: Okay. I farm, run a bunch of cows. Basically, I'm in the seed stock business. I'm a board member of Cornhusker Public Power. We furnish the electricity to

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the ethanol plant at Albion, and that has finally closed. They are not up and running yet, but I do have a vested interest in that, because when they are up and running, the Albion ethanol plant is about 20 percent of the load of Cornhusker Public Power, so I do have an interest in that regards in the ethanol industry. Secondly, I feed a lot of distillers. I get that from the Central City plant, which is also currently down. And this past year, I went through about 30 semi-loads of distillers, so I do have a vested interest in it. I'm a farmer. I sell corn to the elevator. Fortunately, I didn't sell it to the ethanol plants that went belly-up. That's basically it in a nutshell. Any questions?
[CONFIRMATION]

SENATOR DUBAS: Thank you very much, Mr. Frenzen. Are there any questions?
Senator Carlson. [CONFIRMATION]

SENATOR CARLSON: Senator Dubas. Galen, how do you look at the future of the ethanol business, and what do you think? [CONFIRMATION]

GALEN FRENZEN: They're sure getting a lot of bad press lately. You know, where something that to me is...is sort of a no-brainer, a renewable, and all of a sudden, it's the black sheep of a lot of things. I think it's fine. I think the industry maybe has got to do a little cinching up. Hopefully, they'll all get back and running. You know, whether or not they will, I have no idea. I'm sure those that are in the process of construction, they may not get back in business, but I think the ethanol industry in itself has a good future. It's just a matter of right now getting rid of some bad press and getting some financial kinks ironed out. [CONFIRMATION]

SENATOR CARLSON: What's been your experience with distillers grain?
[CONFIRMATION]

GALEN FRENZEN: Love it, love it. I buy distillers and feed it and sell my corn. I don't feed a bit of corn, other than I feed a little bit through my corn silage. But I don't fatten steers. I sell bulls, and so my ration is designed for distillers and roughage. And they grow, stay hard, sound, athletic, and don't get too fat. [CONFIRMATION]

SENATOR CARLSON: Maybe we should all be eating distillers. [CONFIRMATION]

SENATOR DUBAS: Okay (laugh). [CONFIRMATION]

GALEN FRENZEN: No comment, no. (Laughter) [CONFIRMATION]

SENATOR DUBAS: Other questions? Senator Fischer. [CONFIRMATION]

SENATOR FISCHER: Thank you, Senator Dubas. Good afternoon. Thank you for being here today. What do you believe would be your main duties as a member of the Ethanol

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Board? [CONFIRMATION]

GALEN FRENZEN: I really don't know. I'll be flat honest with you. I got the call a couple of weeks ago. I lose track of time, but I was in the field, and my immediate reaction was the last thing I need is another job. And when I got to the end of the field, I stopped and shut everything off and visited. And I thought about this because of my, you know, my association with the ethanol industry from sort of both ends. And said I waited about 24 hours to tell my wife, and I did have to pick her up off the ground, because I'm sure she was thinking the same thing. And the first question I asked when I received the call was, I said, what's the time commitment? And it's not all that much, but I...you know, I have a lot to learn. I know just enough to be dangerous. I read papers, and I'm smart enough to know that they aren't always accurate. [CONFIRMATION]

SENATOR FISCHER: Okay. Thank you. [CONFIRMATION]

SENATOR DUBAS: Other questions? I would have some for you, Galen. There is a push right now to get our usage...percentage of ethanol up to 15 percent. What's your thoughts about that? [CONFIRMATION]

GALEN FRENZEN: I have no problem with it. You know, what bothers me and I've been around long enough is that you see conflicting data on the efficiency and the mileage that you get. And I'm sure some of it is accurate, and I read a deal the other day. This is before I got the call, and I wish I'd have recalled it a little better or studied it, but there's something about...well, I think it was not supposed to be very good on small engines and, you know, here again, I don't recall a lot about it, but I have no problem with it. If you want to use it, fine; if you don't, fine. It's still a free country, but I think it would be nice to get it up there. [CONFIRMATION]

SENATOR DUBAS: Do you have any thoughts about...you mentioned earlier about the bum rap that ethanol has taken for a lot of things and even though the price of grains and everything have come down, we didn't necessarily see those prices reflected in the products that we buy. You know, how would you...what do you think you could do to help counter some of those myths that are out there? [CONFIRMATION]

GALEN FRENZEN: You know I'm somewhat vocal. I have a tendency to speak my mind, a little bit like your dad. But (laughter) I guess if...once you're in one of these positions, pretty soon you start getting the phone calls from the papers and the press and what have you. And being out there with, you know, my feet in the industry, you know, from the production standpoint of the things, hopefully, they will listen to me a little better. And it's just not somebody blowing wind or somebody with an agenda. [CONFIRMATION]

SENATOR DUBAS: And I think you would be a great spokesman. You have been

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involved in the industry for a long time. Galen and I are neighbors, our pastures neighbor, and we just have kind of an open range philosophy out where we live. You don't complain about my cows out, and I won't complain about your cows out. So I think knowing Galen and his family as well as I do, you'd be a great asset to the Ethanol Board, so I too thank you for coming today. Senator Langemeier is here, Chair of the committee, so... [CONFIRMATION]

SENATOR LANGEMEIER: Go ahead, you're doing good. [CONFIRMATION]

SENATOR DUBAS: Does anybody else have any other questions? Senator Carlson. [CONFIRMATION]

SENATOR CARLSON: Senator Dubas. Galen, I was glad to see that you've got Don Simonson, Doctor of Veterinary Medicine down as a reference, because Rempe and Kelsey, you've got a pretty high risk here, and I don't know if you realize that (laughter). [CONFIRMATION]

GALEN FRENZEN: I questioned that when I wrote those down. She knows Doc really well, and there's not a man of more integrity than Doc Simonson. I did under prayerful consideration, but I went ahead and put them down anyway (laughter). [CONFIRMATION]

SENATOR CARLSON: No, they're good people. Thank you. [CONFIRMATION]

SENATOR DUBAS: Other questions for Mr. Frenzen? Seeing none, you're off the hot seat. [CONFIRMATION]

GALEN FRENZEN: Thank you, Annette. [CONFIRMATION]

SENATOR DUBAS: Do we have proponents? [CONFIRMATION]

PETE McClymont: Madam Vice Chair, members of the committee, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm vice president of legislative affairs. We're here in support of Galen. Don't let his humbleness fool you. He has served in many capacities for our state. He has been on the Environmental Quality Council for DEQ. He's also been on the Governor's Water Quality Task Force. In our association, he has been chairman of our natural resource committee. He has been vice chair of our seed stock committee. He currently serves on our water policy subcommittee that helps guide our membership's views on water. Obviously, he's very prominent in the seed stock industry and angus, hereford, and red angus. He's been involved in many things, so we are here in big support of Galen, and I would be happy to answer any questions if those were offered. [CONFIRMATION]

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SENATOR DUBAS: Any questions? Seeing none, thank you. [CONFIRMATION]

PETE McClymont: Thank you. [CONFIRMATION]

JAY REMPE: Senator Dubas, Senator Langemeier, members of the committee, I am Jay Rempe, J-a-y R-e-m-p-e, vice president of governmental relations for Nebraska Farm Bureau Federation, here on behalf of the Nebraska Farm Bureau in support of Galen Frenzen, at the risk of serving as a reference, at the risk of impinging on his (laugh) nomination here. I've known Galen for a number of years, and we've been through a lot of different issues together. I think we first met when he served on the Environmental Quality Council, and then we continued to work together on the Water Policy Task Force. As you could, I think, see in some of the questions and Galen's testimony, he's frank; he's open; he's honest, and I appreciate that in Galen. But he's also very open-minded and very willing to learn and work with the group to try to resolve issues. And I think that's exactly what the Ethanol Board and ethanol industry needs today, and he can also bring in unique perspective and some of the issues that the industry is struggling with right now, the food versus fuel, the livestock, the frictions there, and for the demand of corn. And I think Galen would be a unique voice in that discussion, so we fully support Galen. I'd be happy to answer any questions you might have. [CONFIRMATION]

SENATOR DUBAS: Any questions for Mr. Rempe? Seeing none, thank you. Other proponents? Any opponents? Neutral? With that, we would close the hearing on Mr. Frenzen, and turn it over to the Chair. [CONFIRMATION]

SENATOR LANGEMEIER: Thank you. It's always good to see people come in and testify. So many times we just see the person that's going to be put on the committee and no one else, and so it's always good to see that. So anyway, apologize for my tardiness. We'll now open the committee hearing on Paul Kenney. Come on up. His appointment to the Nebraska Ethanol Board. Welcome to the committee. [CONFIRMATION]

PAUL KENNEY: (Exhibit 2) Thank you, Senators. Paul Kenney, P-a-u-l K-e-n-n-e-y. I am a farmer-rancher from Amherst, Nebraska, address of Kearney. Four boys, two graduated from Lincoln colleges, and one started, just finishing his freshman year, Farmhouse, and have one that's a junior in high school. Cattle operation. If I have my dues paid, I'm a member of Nebraska Cattlemen also. (Laughter) We run cows, corn, started off roughly 12 years ago with a group called KAAPA, and we looked for value-added opportunities for Nebraska. Group came somewhere 2001, 2002 and said, well, you guys ought to build an ethanol plant. So from then on, have been the chairman of KAAPA, the co-op, and KAAPA, the ethanol plant since its inception. We're pretty proud of what we have done. The gentleman sitting behind me to my right, a lot of people had faith in us. Went without being paid for a long time, and it's truly a success

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story in the state of Nebraska. So we're darned proud of that and here to answer any of your questions. [CONFIRMATION]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Kenney?
Senator Fischer. [CONFIRMATION]

SENATOR FISCHER: Thank you, Chairman Langemeier. Thank you for being here today. I'm reading through your resume, and I see you have a lot of foreign travel here. First of all, probably as a LEAD fellow, you were in the class after me.
[CONFIRMATION]

PAUL KENNEY: Yes, uh-huh. Oh, yeah. [CONFIRMATION]

SENATOR FISCHER: So that's a good program. [CONFIRMATION]

PAUL KENNEY: Great program. [CONFIRMATION]

SENATOR FISCHER: And I see that you've gone to a lot of trade shows. Now, I can understand the connection with the corn and the meats, but what is your connection that you were in Paris for with the ag products and soy products? [CONFIRMATION]

PAUL KENNEY: Actually, the Paris trade show was working for the Nebraska Popcorn Growers. They wanted representation there and those were just some of the people we had met. You know, we were there popping popcorn, and popcorn is looked upon differently all over the world, and what they put on it from pepper and sugar and you name it. And it was a unique opportunity. [CONFIRMATION]

SENATOR FISCHER: Did you find these different trade shows to be beneficial to your business individually, or were you kind of representing an industry when you were there? [CONFIRMATION]

PAUL KENNEY: You know, I was specifically selling popcorn, but, you know, any situation like that, Europe, the Japanese market, you know, was completely different, and it just opens your eyes to experiences of the world and how different people buy and sell and trade and that kind of stuff, so. [CONFIRMATION]

SENATOR FISCHER: And what do you think will be your main duties on the Ethanol Board? What do you see as the assets that you would bring to that membership?
[CONFIRMATION]

PAUL KENNEY: You know, with the other member being appointed today, I don't know. Todd will help a lot. You know, I realize a couple of good guys have went off. I believe in institutional knowledge. There will be a lot that will disappear that we won't be able to

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learn, but then Galen and I will bring a lot to the board, different experiences, different times, so, you know, pretty excited about it. [CONFIRMATION]

SENATOR FISCHER: Great. Thank you. [CONFIRMATION]

SENATOR LANGEMEIER: Senator Cook, did you have a question? [CONFIRMATION]

SENATOR COOK: No, I was just using my finger to go backwards. Thank you.
[CONFIRMATION]

SENATOR LANGEMEIER: Okay. Senator Carlson. [CONFIRMATION]

SENATOR CARLSON: Senator Langemeier. Paul, what percent capacity is KAAPA Ethanol operating today? [CONFIRMATION]

PAUL KENNEY: You know, because of existing federal legislation, we're going just as hard as we can, but we have to stay just a little below. We have interest in another ethanol facility, so we have to stay below 60 million gallons. [CONFIRMATION]

SENATOR CARLSON: Okay. This may be a question you don't want to answer. But is there any...I want a good word here. I don't want to say dirty politics...any underhandedness that you see on the part of the oil companies that buy low from KAAPA Ethanol and end up selling high, because there's never much of a margin between gasoline and ethanol...ethanol blended? [CONFIRMATION]

PAUL KENNEY: So, Senator, I'll try and give a politically sensitive answer. You know, in any commodity business things are tough, and we believe that we...to prepare ourselves for the international/national market, we're within a group of ethanol marketers that are similar to ourselves. Farmer plants, you know, a bulk of them are from Minnesota which puts us in, you know, a major play. We're either third or fourth nationally on our ethanol sold. So to answer the question, as we play those games too, there's obviously information that's out in the marketplace about food versus fuel. A lot of those, I would, you know, love the opportunity to take a crack at, but we probably don't have enough time for today. But I firmly believe in the industry and so do our shareholders. [CONFIRMATION]

SENATOR CARLSON: Are the oil companies getting a good deal by blending ethanol?
[CONFIRMATION]

PAUL KENNEY: You know, yes. One of the interesting things I had learned not too long ago is that it also allowed the oil companies, say at a refinery, they can take a lower grade that would have come out of the refinery that wouldn't have made spec, wouldn't have been able to sell, add the high octane ethanol to it and now it's a marketable

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product, so yes, they make money, and they need to make money. But we need to make some too. [CONFIRMATION]

SENATOR CARLSON: Thank you. [CONFIRMATION]

SENATOR LANGEMEIER: Senator Dubas. [CONFIRMATION]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Kenney, for being here. I'm somewhat familiar with KAAPA, but is it still a totally farmer-owned, locally-owned ethanol plant? [CONFIRMATION]

PAUL KENNEY: There's always some confusion there. KAAPA, the co-op, is, you know, guys that just write their \$200, \$300 dues check and that's just an economic development group of farmers trying to do that. KAAPA Ethanol, LLC, we do have some out-of-state owners. One of the largest, his father lives in Palmer, Nebraska, and own a bunch of banks, but he's kind of a Nebraska guy. We have a shareholder that lives in Chicago, but, you know, we needed those guys for the cash to be able to put it together, because we had nothing and put it together from nothing and built a plant. [CONFIRMATION]

SENATOR DUBAS: The ethanol plants that are right now kind of in limbo, how has that impacted the KAAPA ethanol plant? [CONFIRMATION]

PAUL KENNEY: It hasn't. I mean, we battle with the perception that, you know, the industry is in a terrible state, and, you know, we paid out the same amount of dividend last year or in March that we, you know, basically have been. Since January 1st, it's been pretty flat-line, I might add, but, you know, we were expecting that. But we're expecting a better second half of the year. [CONFIRMATION]

SENATOR DUBAS: Well, I think, as I said, I'm somewhat familiar with KAAPA, and I think it's kind of one of those silent success stories or unsung success stories. Outside of the immediate area, not a lot of people are aware of how long you've been in existence and what you've done to... [CONFIRMATION]

PAUL KENNEY: Senator, we like it that way (laughter). [CONFIRMATION]

SENATOR DUBAS: Why? [CONFIRMATION]

PAUL KENNEY: Because then you can slip in and talk to different people and, you know, you're not being hounded. You'd be amazed at how many groups come to us, want to do some weird project that, you know, it just takes so much time. And, you know, basically, we don't have the money to do it and. [CONFIRMATION]

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SENATOR DUBAS: So you've just stayed very focused... [CONFIRMATION]

PAUL KENNEY: Pick and choose. [CONFIRMATION]

SENATOR DUBAS: ...you've stayed very focused on your...well, I congratulate you on your success, and I think you would bring a lot to the Ethanol Board. [CONFIRMATION]

PAUL KENNEY: Thank you. [CONFIRMATION]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much for your testimony, and thanks for coming down. [CONFIRMATION]

PAUL KENNEY: Appreciate the time. [CONFIRMATION]

SENATOR LANGEMEIER: Other testimony in support or proponents of Mr. Kenney's appointment? [CONFIRMATION]

LORAN SCHMIT: Good afternoon, Chairman Langemeier and members of the committee. My name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I've known Paul for a long time, but I've worked with him very closely, as he indicated, since about 1999, I believe. And those fellows out there have done an excellent job, and they've put together a plant which is a success, and they have demonstrated that good management is a key factor in that success. And I think it's probably appropriate that I comment about the lack of success in some of the plants. People have asked me what has happened to the ethanol industry? And I like to comment that the ethanol industry, as the automobile industry, and the banking industry, and the insurance industry, are in a period of economic crisis. We've not seen the billions of dollars poured into ethanol that has gone into the automobile business or the banking business or the insurance business, and yet we continue to work and survive. We know that we have to depend upon our competitor to sell our products, and it's not a very desirable position to be in. And I think that the ethanol industry will work around it after a while, and as we do, we're going to be more profitable. We need ethanol, and when the ethanol industry was first encouraged to become involved almost 40 years ago, we predicted that we would one day take the lead out of gasoline, and the ethanol would replace the lead to maintain the octane ratings. Today, the detractors of ethanol say, you know, ethanol will only produce a fraction of the amount of ethanol, of energy we need. Never did the industry ever intend to replace gasoline. We intended to replace the lead in gasoline with a higher quality product and improve the air that we breathe as a result of it and provide a very good engine fuel. I think that the detractors have been proven wrong when they said we can't produce both food and fuel. We went from a chaotic market a year ago to the one today where the corn producers are glad we have the ethanol industry. If we didn't have the ethanol industry today using 27 percent, I believe, of our corn, we would see corn below \$2 a bushel. And I would suggest that maybe the Nebraska Legislature,

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you folks would have a more serious problem than you have now. I commend you for the work you've done to maintain the fiscal responsibility you've done. But a large part of the success of Nebraska industry and agriculture has been due to ethanol and, yes, it's a new industry, and we've got to go through some growing pains, but we've come a long way, and we're going to get better. Any other questions? I'd be glad to answer them. [CONFIRMATION]

SENATOR LANGEMEIER: Very good. Are there any questions for Senator Schmit? Seeing none, thank you very much for your testimony. [CONFIRMATION]

LORAN SCHMIT: I never get a chance to talk much, Senator, but I'm glad to be here anyway. Thank you very much. [CONFIRMATION]

SENATOR LANGEMEIER: You bet. Thank you. Further testimony in support... [CONFIRMATION]

LORAN SCHMIT: By the way, I support Mr. Frenzen also. I don't know him, but I know him by reputation, and I think he'll be a great member of the board. [CONFIRMATION]

SENATOR LANGEMEIER: Very good. Thank you. Further testimony in support? His dues are paid up. (Laughter) [CONFIRMATION]

PETE McClymont: Again, for the record, Chairman (laugh). Yeah, I get my BlackBerry out and check, so the same with Galen. Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm here just to echo Paul's comments. I know firsthand experience, our feed yard bought distillers grains from KAAPA, and we were also part of many farmers in the area that were offered to buy stock in KAAPA, and it was always a firsthand operation, the way they presented it, and the way we've dealt with them over the years. So like Senator Dubas said, KAAPA is a shining star in terms of how ethanol plants should be run with all the producers involved, and so, with his firsthand experience, he'll be an excellent member of the Ethanol Board, and so with that, I conclude my testimony, and happy to answer any questions. [CONFIRMATION]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you very much for your testimony. Further testimony in support? Seeing none, any testimony in opposition? Seeing none, any neutral testimony? Seeing none, thank you. That concludes the hearing on behalf of Mr. Paul Kenney. Thank you for coming down. Do I have a motion to go into exec session? [CONFIRMATION]

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Chairperson

Committee Clerk