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Rough Draft

Natural Resources Committee  
December 10, 2009

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[LR101]

The Committee on Natural Resources met at 9:00 a.m. on Thursday, December 10, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting an interim public hearing on LR101. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Deb Fischer; and Ken Haar. Senators absent: Tom Carlson; Tanya Cook; Beau McCoy; and Ken Schilz. []

SENATOR DUBAS: Senator Langemeier called, saying that he too is running behind, so he'll be here as quickly as he possibly can. We're checking on one other senator that we think is going to be here, but we'll go ahead and get started. My name is Senator Annette Dubas. I'm the vice chair of the Natural Resources Committee. The committee members who are present--to my far right is Senator Deb Fischer. To my left is Senator Ken Haar. Laurie Lage is legal counsel for the committee, and Barb Koehlmoos is our committee clerk. Let's see, if you're planning on testifying, there's green sheets by the door. We ask that you fill those sheets out and hand them to the committee clerk. It's for her reference should she have questions about your testimony, so that she can get ahold of you. There's also a sheet by the door if you just want to go on record that you are here and your thoughts about what we're hearing today. You can sign that. If you have something to hand out, our page for today who is out looking to see if Senator Carlson is in the building is Megan Loberg. She's a sophomore at the University of Nebraska. She can pass out any information that you would like to get to the committee. When you come up to testify, if you would please state your name clearly and then spell it for the record. And we ask that you please turn off or turn down your cell phones so that they don't interfere with the course of the hearing. It also can interfere with our recording devices. This is an interim hearing, so it's not like we'll be taking supportive testimony, opposing testimony, and neutral. You just can come up and state your case in any order that works for you, and we do ask that there's no public displays of support or opposition to the testifiers or to what they are saying. I think that's it, so we will begin with Senator Ken Haar introducing LR101. []

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SENATOR HAAR: Members of the committee, thanks for being here. My name is Senator Ken Haar, K-e-n H-a-a-r. Well, LR101 is an interim study to examine issues relating to the impact of additional well development on water use by domestic wells in areas of this state where groundwater supplies are limited. This issue came to my attention because some of my constituents...and we all in my area live where groundwater supplies are limited, have had some problems with domestic well development, and currently there are no state statutes to regulate domestic well development or management or protection. And this is important, especially in the case of acreages. So with that brief introduction, I'd like to make way now for some of the people who have come to testify to see what the problem is and then to see if we need to develop some additional legislation. Thank you. [LR101]

SENATOR DUBAS: Thank you, Senator Haar. Questions? Hang on a second. [LR101]

SENATOR HAAR: Oh, I'm sorry. [LR101]

SENATOR DUBAS: There might be a question (laugh), but I see none. Thank you. [LR101]

SENATOR HAAR: Okay. [LR101]

SENATOR DUBAS: First testifier. Don't be bashful (laugh). [LR101]

SENATOR HAAR: Come on up. [LR101]

SENATOR DUBAS: If no one is going to testify, Senator Haar...you'll have to go back and fill everybody in on... [LR101]

SENATOR HAAR: I guess. (inaudible) [LR101]

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MIKE DeKALB: I'll break the ice. I'm Mike DeKalb, M-i-k-e D-e-K-a-l-b. I am the county planner for Lancaster County which is a piece of Senator Haar's district. I do subdivisions. I process subdivisions, change of zone special permits, and so on that occur in Lincoln and Lancaster County's jurisdiction. And I'm quite familiar with the particular project...well, I should say quite familiar. I didn't bring the files, but with the issue that I think probably generated this initiative by Senator Haar. I basically came to answer questions. I didn't come with a prepared statement. I thought I might tell you what we do and answer questions, and I hope kind of come at the end that we have heard testimony and could better frame some questions. And if you'd like, I'll certainly stay and come back. But in Lancaster County, and I think unique to the state, we do pay some attention to groundwater. Part of the county, southern part of the county, we get 300 to 800 gallons a minute. It's very good. We've got center pivots down there. It's the well field for Lancaster County Rural Water District is down there. We're in good shape. As you go west and northwest of Lancaster County and get up into the northwestern corner, we get into an area where groundwater is very spotty. Up by Valparaiso, there's some sweet spots. But and out by Senator Haar's home and up in the area of Raymond and so on, if you go too deep you'll hit saline deposits, salty water. When I say spotty, it may be one or two or three or five gallons a minute; some cases to 10 or 20 or 15 gallons a minute. And there is no rural water district in that portion of the county, so you're on your own. Groundwater and wells are it. What Lancaster County does is in our subdivision regulations and in the city of Lincoln subdivision regulations, if you propose an acreage subdivision or an acreage development and a subdivision to come in, you are required to provide a groundwater report satisfactory to the health department. Those vary, depending on what's known in the area and what the health department might require, but typically, it includes a report by a groundwater hydrologist that says that they expect to find certain quantities and qualities of groundwater, what the expected pumping rate would be, what the expected quality of the water would be, and the general expected impact on the surrounding area. Our standards per se once we have this report is part of...well, it's part of the public information; it's part of the

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submittal by the applicant. It's available to the public. We require that groundwater report to be available to all purchasers of lots in the final subdivision when it's done. As far as the review, city county health reviews it and says it's adequate or not or requires additional information sometimes. Sometimes their report is good enough to stand on its own. Our standards per se relative to quantity is, we kind of go...my understanding is that HUD requires on a federal loan for a house that you get five gallons a minute. So that's our threshold is basically five gallons a minute. Based on that, realizing that if you know what you're...or have some expectation what you're going to get, you can design your water system accordingly. I mean, you can have holding tanks and pump overnight and have more than adequate water perhaps during the daytime because most appliances--water-using appliances, according to my code people, say you need about ten gallons a minute or more to run your dishwasher and washing machine and so on. On the quality side, the city county health department says that basically if it's treatable then they're satisfied. If there is a...you know, a problem comes up with high nitrates or something, their point is they want to know it's there, and they want the buyers to know that it's there, and they want folks to know that they may well need to treat. And if there are unusual conditions, they want that to come up as well, so that's the basic package we have. We get that report. It's part of the information at the beginning of the process; it's part of the public hearings that we have on an approval of the subdivision and planning commission at the county board. That's what we do. I hope that'll kind of help break the ice a little bit, and if you have any questions to start with, or if you'd like I'll stay for later. [LR101]

SENATOR DUBAS: Thank you, Mr. DeKalb. And our committee chair has arrived, Senator Langemeier, so... [LR101]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Are there any questions for Mr. DeKalb? Senator Haar has one. [LR101]

SENATOR DUBAS: We do have some questions. [LR101]

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SENATOR HAAR: Yes, thank you. Thank you, Chairman Langemeier. Thank you, Mike. So are there any...my understanding then is that there are...even though the report is required and so on, there are absolutely no standards that builders have to go by. Is that the situation? [LR101]

MIKE DeKALB: That's correct. What we require is the report be made available to the purchaser of the lot and that the health department does a review in the standards that I mentioned that they apply or what applies as far as standards for well construction or holding capacity or tanks or other things. To my knowledge, the answer is no, but then I don't follow the...I'm not part of the permitting process for putting on a well either. [LR101]

SENATOR HAAR: Okay. But in the case since you're with the planning department, do they get involved with it then or not? [LR101]

MIKE DeKALB: I don't...could you clarify your question? We're involved in it relative to the application for subdivision and the requirements for the report and making it part of the process and distributing it to the health department, making sure that it's there. If it's in an area that has groundwater, and the developer tells us what they intend to do for their source of water, if they're intending to have a rural water district, we require them to have the line in place in front of the lot, so the landowner has the option of tapping whichever source they do. But as far as involvement in the process, that's our piece of it. [LR101]

SENATOR HAAR: Okay. And so there is no enforcement of any standard at any point about how many gallons per minute, that sort of thing. [LR101]

MIKE DeKALB: No, not by us. [LR101]

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SENATOR HAAR: Okay. Thank you. [LR101]

SENATOR LANGEMEIER: Thank you, Senator Haar. Senator Fischer has a question. [LR101]

SENATOR FISCHER: Thank you, Chairman Langemeier. Thank you, Mr. DeKalb, for being here. Do you work, or do the builders work with your local NRD in the planning process at all? I mean, I would assume that the NRD has records on where current wells are in their district, and I would think they would be helpful in...especially with the builders in being able to plot out subdivisions and things. [LR101]

MIKE DeKALB: Our health department normally refers folks both to the conservation survey division of the University of Nebraska which has data resources on groundwater levels and subsurface records that go back a long time as well as to the Lower Platte South NRD, and we have somebody here that's going to testify on that. In Lancaster County, some of you may remember about five or six years ago, Lancaster County asked for some amendments to the state statutes to allow us to get building permits on dwellings versus farm buildings. That was approved, and for that period of time, five or six years, we do get building permits on all residential structures in Lancaster County in all new construction. Of course, the city plumbing code essentially is what applies in that case. Drillers...I mean, we've got some...I'd say there's three or four that probably do most of the drilling in Lancaster County. They do cooperate and coordinate with the city county health department which is also involved in that process. [LR101]

SENATOR FISCHER: How does Lancaster County compare to other more urban counties? Do you all kind of follow the same process or is it up to the local political subdivision on how they want to handle that? [LR101]

MIKE DeKALB: It's the latter. More urban counties than us, I think, has got to just be the Omaha metro area, but about 10 percent of the population of Lancaster County is

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outside of Lincoln, probably 6 to 7 percent is in the rural area, the non-towns. And zoning and subdivision are strictly...well, I shouldn't say strictly. They obviously follow the state statutes which sets a basic framework, but other than that, every jurisdiction sets their own rules. And all incorporated towns, regardless of size, and all counties have the power to do zoning and subdivision. [LR101]

SENATOR FISCHER: It seems to me that counties already have the authority to handle this situation. Do you want the state to get involved in this and set the standards and tell you what to do? [LR101]

MIKE DeKALB: It's a heck of a good question. I'm not representing the county board in the sense of, do we want you as a supporter or...I think we do a good job. I think we do a better job than anybody in the state, quite frankly. [LR101]

SENATOR FISCHER: Oh, now wait a minute (laughter). [LR101]

MIKE DeKALB: Well, you know, I get to polish my...and everybody else would, I think, probably say something very similar. I think we're on top of this and have been on top of it for...since the sixties on providing...getting information and providing information because we are in a county that has great variability in groundwater, and we realize...in fact, I've had football players from years past that had made some money and came back, built a fancy house. Lancaster County drilled a well and found out they had salty water and had to put in reverse osmosis and do a lot of treatment because you can't really live there very long if you don't have good water. And the NRD has looked at forming rural water districts to Emerald and to the west and northwest up towards Valparaiso, so I think we do a good job. And the answer to your question is I think that this is exploratory on your part. I don't know what you might think of adding or dictating or assistance that you might choose to offer through agencies of the state that might be helpful to us because, as I understand it, I think we do a fairly good job of number one, providing base information for people--information to developers and to buyers. We do

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look at surrounding areas as far as impact. It is a science. I also...I've often told folks if I was Superman and had x-ray vision and could see the groundwater, you know, that would be great. And there are a lot of things that we all do like we've done lidar and some subsurface radar testing across Lancaster County to try and determine that plus the logs of everything, depending how many pinholes or straw holes have been stuck in the ground of what's there, and we're getting better and better information. But it's still as much an art and maybe as much voodoo as it is a real science. And on the case in point, that location that came up, Lancaster County, we had experts both well drillers and hydrologists telling us two different things, same information, and safe-based information. So how you get beyond that to be able to make clearer decisions is a hard one to get to, and so I don't know what the state... [LR101]

SENATOR FISCHER: Do you see possible conflicts if the state would get involved in this and set statutes on what needs to happen? Could there be possible conflicts for counties because they each have their own planning boards; they each have their own zoning policies? And if the state steps in and has a blanket effect that doesn't take in the diversity with the counties, would that be a problem if we didn't go along with what Lancaster County Planning would want to do? [LR101]

MIKE DeKALB: Depending what you do, the answer is yes. I mean, and not only do we do, I think, a fairly good job, but the diversity across the state. At this point in time, I think we have about 90, 92, or 93 of the counties have zoning and subdivision adopted, thanks to cattle feedlots and the various other things that really spurred all of that. But now most of them have something in place, and they're all different, and they may or may not have the tools and resources to get to certain places. So unless you provided the resources as well like NDEQ or somebody else to provide the information, it could be a problem depending how you frame it. [LR101]

SENATOR FISCHER: Thank you. [LR101]



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MIKE DeKALB: You're welcome. [LR101]

SENATOR LANGEMEIER: Thank you. Are there any other questions? Seeing none, thank you, Mr. DeKalb. Thank you for your testimony. Further testifiers on LR101. Come on up. Good morning. [LR101]

PAUL ZILLIG: (Exhibit 1) Good morning. I am Paul Zillig, P-a-u-l Z-i-l-l-i-g. Senator Langemeier and members of the Natural Resources Committee, I am assistant manager with Lower Platte South NRD and presenting testimony today on LR101 on behalf of the Lower Platte South NRD. We appreciate the committee's interest in this issue and exploring legislation might address some of the concerns. The Lower Platte South NRD is primarily located in the Lancaster and Cass Counties, and is experiencing increases in the number of domestic wells as acreages continue to develop, especially near Lincoln. We feel it is very important that there will always be adequate water supplies for all domestic users. The groundwater availability of these areas varies between supplies that can be easily utilized for a well, for typical domestic purposes and almost no limitations to areas where groundwater is very limited and even with close management, adequate water supplies might not be available at all times. The residents in many of these water short areas in primarily eastern Nebraska set up rural water districts in the early 1970s and improvement project areas through their NRD since then to provide a reliable water supply. In many other areas, there is no adequate water source for a water district. The cost of a water district is not feasible, or there is not enough support to establish a water district. In many of these areas, with limited groundwater supplies, residents are concerned about the impact that more domestic users would have on the local groundwater supply, and what can be done to ensure that they will always have an adequate domestic water supply. The availability of groundwater is dependent upon the existing geology of the area, and primarily, the availability of some sand and gravel below the earth that can store water, that can be then pumped from a well. The geology in eastern Nebraska is typically not uniform and can vary greatly over a short distance which impacts the rate at which groundwater can

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move and how or if pumping from one well might impact another well. This also limits the ability of experts to determine that problems will or will not occur. The existing laws allow landowners to install low capacity domestic wells to utilize groundwater located under their property. It seems fair and works well nearly all the time. There are some properties that have little or no groundwater, and short-term drought related shortages will always remain a possibility in these areas with very limited water supplies. We feel the wise use of water, good local land use and zoning decisions that take into account the availability of groundwater resources and neighbors working together is still the best approach to address any potential problems between domestic well owners. Thank you. [LR101]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LR101]

SENATOR HAAR: Senator Langemeier, thank you. Thank you for coming today. [LR101]

PAUL ZILLIG: Good to be here. [LR101]

SENATOR HAAR: I hope you had a safe trip in. In the case...you make the statement, the existing laws work well most of the time. Are you familiar with the situation that brought this issue up in Lancaster County? [LR101]

PAUL ZILLIG: Yes, I am. [LR101]

SENATOR HAAR: Could you describe that from your, you know, scientific standpoint and so on? What went wrong here in zoning all of these wells? [LR101]

PAUL ZILLIG: Well, the...I think as Mike DeKalb indicated, they had information from two different sources on the availability of groundwater out there, what they might impact. I think even the most optimistic study was one that said that people would really

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have to curtail outside use. There wasn't enough water for people to be watering a garden and using outside use, so there really was real limited water supplies out there. My perception is the...some of the zoning that was already in place out there kind of made them decide through their local process that they...I think they put a stipulation on that, you know, before any lot was sold they had to show that there was adequate water, and, you know, so the county kind of put that stipulation on it. I guess, you know, that was probably the best that they felt they could do on the situation. You know, so it got to the point that, you know, they weren't able to really project that, but they said before anybody could sell a lot they had to show that there was water out there, and that seems to be...kind of went against what our recommendation was, but, you know, that's what some of the...seemed to be the best solution they could come up with.  
[LR101]

SENATOR HAAR: Um-hum. And what was your recommendation? [LR101]

PAUL ZILLIG: Well, we...our recommendation was that we basically pointed out that there was very limited supplies out there, and they needed to make sure they took that into account. We did not get into the zoning area as far as whether they would approve 22 homes or 10 or whatever. But we...our recommendation was they really take that into account. In a way they did, but, you know, there again, it gets down to requiring a well be installed or at least test hole be put on each lot. [LR101]

SENATOR HAAR: Is that the situation now where they're doing that or they'll be required to do that to put down a test well? [LR101]

PAUL ZILLIG: I think Mike DeKalb would probably have to answer that as far as where that's at. [LR101]

SENATOR HAAR: But...and then apparently, the regulation said that you have to take into account that there was water. Are there any standards to that? Does it have to be

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one gallon per minute or ten gallons per minute or? [LR101]

PAUL ZILLIG: Well, Mike had mentioned the five gallons threshold, five gallons a minute threshold for, you know, some loans. You know, through the whole process out there, you know, we heard from people that use a pump and dump type system where they might have a well that's yielding two gallons a minute which is, you know, not very much water. But if the well runs 24/7 and then they have a reservoir that it pumps into continuously, you know, they would have, you know, a thousand gallons a day, something like that. So, you know, those kind of systems are out there. [LR101]

SENATOR HAAR: Are there any national kind of standards or is this just that a problem with, you know, poked its head up here? [LR101]

PAUL ZILLIG: I couldn't tell you what national standards there might be. [LR101]

SENATOR HAAR: Okay, okay, thank you. [LR101]

SENATOR LANGEMEIER: Thank you, Senator Haar. Are there any other questions? Seeing none, thank you very much for your testimony. Further testifiers on LR101? Welcome. [LR101]

LARRY ANGLE: Good morning. Good morning, Senators. My name is Larry Angle. I am the water resources manager of the Lower Platte North NRD based out of Wahoo, Nebraska. [LR101]

SENATOR LANGEMEIER: Larry, I need to stop you. I need you to spell it, spell your name for me, please. [LR101]

LARRY ANGLE: Angle, A-n-g-l-e. [LR101]

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SENATOR LANGEMEIER: Thank you. [LR101]

LARRY ANGLE: Well, our district is a major public water supplier for the metropolitan cities of Lincoln and Omaha. Our district is also beginning to face some of the challenges of increased urbanization, specifically water use from domestic wells. Some of these housing developments are being proposed in locations where we believe our aquifers are thin or are very limited in aerial extent. Our concern is that multiple homes each irrigating large expanses of lawns and/or gardens could collectively approach the amount of water use of an irrigation well for row crops on a comparative number of acres. In 2007, our district imposed stay management areas in selected locations to address these low capacity wells such as individual domestic wells. In the stay management areas, if a new homeowner wishes to drill a domestic well and irrigate one or more acres of land, they need to obtain and get an approved variance and well permit from our district before well construction can begin. One of the conditions of that variance in well permit is that the homeowner must provide offset water to balance out their increased water consumption. Again, the key factor is irrigating one acre of land or more. If water use is less than the one acre in size, then the variants in the well permit are not required. We believe these rules fall within the existing state statute yet still allow our district to protect our water resources. And I guess I would add, with the current economic situation, the number of housing developments that we see in our district has significantly slowed down, but I imagine that will reverse itself probably within the next couple of years. Thank you. [LR101]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LR101]

SENATOR HAAR: Thank you, Senator Langemeier. Thanks for coming, Larry. Explain to me and give me sort of a 101 on state management areas. What does that mean? [LR101]

LARRY ANGLE: Well, these stay management areas were imposed by our district. This

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was before the state designation of the fully appropriated areas in the Lower Platte Basin. We imposed these, again, starting in 2007 because of some of our thin aquifers that we wish to protect. For example, the Swedeburg area has really brought this to our attention. We do not have a lot of information on the aquifers in this area, but we do believe they are of limited size and, therefore, one large irrigation well could tip it over the edge and start declining that pocket aquifer, if you will. In the Swedeburg area, it was the number of housing developments that were being proposed in this area. It was 80 housing estates, if you will, that would have three acres or more in size, and our concern was if these went in without any restrictions, that the current water users in the Swedeburg area, as well as the new ones, would potentially start declining that pocket aquifer. And so that was our concern, and we felt we needed to address that, take those into account. [LR101]

SENATOR HAAR: So this does, in a way, cover domestic wells. [LR101]

LARRY ANGLE: Yes. [LR101]

SENATOR HAAR: Okay. So if I came in...for example, I own 23 acres out by Branched Oak, and I came in to build a house there. What would, in your process, what would I go through then? [LR101]

LARRY ANGLE: Well, if you were...if it was to be a domestic well that would just irrigate one acre out of that 23, you would not need a variance or a well permit if you were in our state management area. But if you wanted to, you know, say raise horses and irrigate, you know, fields, etcetera, to raise crops or I should say, you know, even over one acre in size, then that domestic well would require that...to go through that variance process to look at potential offsets that you might be able to offer. And then once approved, then you'd have to go through the well permitting process. But, however, once the variance is approved, the well permitting process is pretty much clear cut after that. [LR101]

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SENATOR HAAR: But if the only thing I have on that property is a house, then there's no permit required or? [LR101]

LARRY ANGLE: Correct. [LR101]

SENATOR HAAR: Okay. [LR101]

LARRY ANGLE: And, again, we believe that falls within existing state statutes and yet still accomplishes how we feel we could protect our water resources. [LR101]

SENATOR HAAR: Okay, thank you. [LR101]

SENATOR LANGEMEIER: Senator Dubas. [LR101]

SENATOR DUBAS: Thank you, Senator Langemeier. You mention the offsets. Now is this on each individual...each individual homeowner would have to provide an offset, or is that offset for a whole subdivision? [LR101]

LARRY ANGLE: Primarily, well, it could be for both. For example, in the Swedeburg area, there was a housing development that was proposed, but the idea was they could offset it by taking the irrigation well out of production. And so that would exist for all the homeowners or all these lots that wanted to go in at that time. If it was in addition to that, then the individual would have to make up those offsets. [LR101]

SENATOR DUBAS: What kind of an offset would an individual homeowner have available? [LR101]

LARRY ANGLE: Well, typically, it would be if you want to irrigate, say, two acres of property then you would have to take two acres out from someone else and say your

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adjacent homeowner would be willing to allow that and say he was irrigating three acres. And you'd make some arrangements between the two of you that would allow the first neighbor to take those two acres out of production so you could irrigate your acres. So the collective total would remain the same. [LR101]

SENATOR DUBAS: Okay. Thank you. [LR101]

SENATOR LANGEMEIER: Senator Fischer. [LR101]

SENATOR FISCHER: Thank you, Chairman Langemeier. Mr. Angle, do you work with the counties at all in trying to come up with plans? Do you...I guess what I'm getting at, do you have to take into account the...what planning commissions at the county level, what the zoning commission does, or do you feel that the NRD can handle the groundwater situation on its own? [LR101]

LARRY ANGLE: It should be a collective process. We have worked with Saunders County and the planning commission on this very issue of the Swedeburg situation that it mentioned. And so we worked on that collectively. [LR101]

SENATOR FISCHER: Throughout your district, the NRD district, do you have, I guess, an all encompassing plan in effect right now, dealing with domestic wells? [LR101]

LARRY ANGLE: No. Again, these selected areas, these stay management areas, that were imposed by the district probably only encompass maybe about 25 percent of our district. The other portions, for example, if you were to have the housing development in the Platte Valley or the Todd Valley, where we do not have a problem at this time, this would not apply. It's only in the stay management areas, like I say, primarily the uplands of Saunders County and a little bit over into Butler County or the primary focus. [LR101]

SENATOR FISCHER: Now, you used the term, state management area, is that what



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your NRD is called, these areas? [LR101]

LARRY ANGLE: It's stay. [LR101]

SENATOR FISCHER: Oh, stay. [LR101]

LARRY ANGLE: Management areas. Sorry. [LR101]

SENATOR FISCHER: Do you...I'm sorry, I didn't hear you correctly. In fully- and over-appropriated basins, integrated management plans are required. Do you think it would be good policy to have that option available to NRD in the state? [LR101]

LARRY ANGLE: Yes, I think it would be. Again, I'm testifying in a neutral position, but I would think especially in the glaciated portions of the state, the eastern third, that such options would be beneficial. [LR101]

SENATOR FISCHER: Thank you. [LR101]

SENATOR LANGEMEIER: Senator Haar. [LR101]

SENATOR HAAR: Thank you, Senator Langemeier. One final question. When you talk about, if you irrigate more than one acre, how do you define irrigate? Is that in gallons per minute or how do you...? [LR101]

LARRY ANGLE: It's just the size of the land or one acre in size or larger. [LR101]

SENATOR HAAR: So watering my lawn wouldn't...or does that count as irrigation? [LR101]

LARRY ANGLE: If it's greater than one acre in size, and you wish to get a new well put

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in, if it's a replacement then we'd have to look at that as well. But if it's a...say a new homeowner wishes to come in and irrigate more than one acre of land, you know, a large expanse of lawn, such as some of these estates, then you would have...and you are within the stay management area of our district, then you would have to go through the variance process. [LR101]

SENATOR HAAR: Okay. Thank you very much. [LR101]

SENATOR LANGEMEIER: Senator Fischer. [LR101]

SENATOR FISCHER: Thank you. Can I do a follow-up? Is that okay? [LR101]

SENATOR LANGEMEIER: You bet. I got one too so. [LR101]

SENATOR FISCHER: Thank you. Do you think that the NRDs in conjunction with working with the zoning and planning commissions in each county have the tools available now to be able to regulate the water use in their districts with groundwater? [LR101]

LARRY ANGLE: For the most part, yes, but there is still information lacking. For example, our district as well as Lower Platte South are doing a major study on the glaciated portions of the state. It's called the ENWRA project or Eastern Nebraska Water Resources Assessment, and information is key in order to locate these thin aquifers or nonexistent aquifers. I know in Lower Platte South, they have problems with the Dakota aquifer, and that does extend up into Lower Platte North as well as the Nemaha NRD. And so, that's areas of limited water as well as water quality concerns so. [LR101]

SENATOR FISCHER: How much of your NRD district...what percentage would be irrigated by agricultural use? [LR101]

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LARRY ANGLE: I believe our district is probably about 60 percent irrigated. There are some pasture lands, but by and large, for example, large portions of the Platte Valley in our district are irrigated. It's probably closer to like 80 or 90 percent. Large portions of the Todd Valley probably approaching 65 to 70 percent are irrigated. [LR101]

SENATOR FISCHER: I would assume quantity of water is available then in those areas. You don't have a thin aquifer or what is available there? [LR101]

LARRY ANGLE: No, not in those areas. Those are very good aquifers, very stable aquifers. Some of our limited aquifers, for example, I mentioned before the Swedeburg area, all the uplands of Saunders County, for example, around Prague, Abie, Bruno, very limited water supplies. [LR101]

SENATOR FISCHER: And that's basically where you're seeing housing developments being built or at least projected to be built would be in those areas where you have that thin aquifer? [LR101]

LARRY ANGLE: Probably not around the Prague area. That's far enough away from Lincoln and Omaha, but the Swedeburg area is seeing some pressure as well as Ceresco which is in the Lower Platte South. These areas are seeing some housing developments coming in that, you know, within easy commuting distance of Lincoln. [LR101]

SENATOR FISCHER: Okay. Thank you. [LR101]

SENATOR LANGEMEIER: Larry, thank you for your testimony. (LB)962 gave you the right to do well moratoriums, and you called them a stay, but you've really put a well moratorium on irrigated acres within that Swedeburg area and then into Butler County, and as you called a thin aquifer. [LR101]

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LARRY ANGLE: Yes. [LR101]

SENATOR LANGEMEIER: Okay. And with those moratoriums, we talked about irrigation. It's strictly for irrigation development, correct? [LR101]

LARRY ANGLE: Yes. [LR101]

SENATOR LANGEMEIER: So as far as Senator Fischer has a house in the country, and I want to go out and put just a domestic well in. As long as I'm under 50 gallons a minute, I really have...I don't fall under your stay, as you called it, or I call it a moratorium. As long as I'm not irrigating my pasture, I'm just using it for domestic purpose, correct? [LR101]

LARRY ANGLE: Well, our...we look at low capacity wells that are under 50 gallons per minute, so again, if you put in a domestic well within our stay management area and, say, it's ten gallons per minute, you would still have to go through the variance and the well permitting process. [LR101]

SENATOR LANGEMEIER: Even if I'm going to use it for my house only. [LR101]

LARRY ANGLE: If your house only, that's fine. No. It's only if you're going to use that for like, said large expanses of lawns, etcetera, over one acre in size. [LR101]

SENATOR LANGEMEIER: Okay. So, if for some reason, I only had one acre to start with, and I put my house on it, so I would have less than an acre to irrigate then I wouldn't have to go through your process. [LR101]

LARRY ANGLE: Correct. [LR101]

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SENATOR LANGEMEIER: Okay. [LR101]

LARRY ANGLE: And, again, if you just have, say, three acres of land, but you...you know, you're not irrigating that lawn, then again, you would not need to go through our process. [LR101]

SENATOR LANGEMEIER: So if I just wanted to live in the country, build a house and take in the stars and not mow my yard, I wouldn't have to do anything (laughter). Right? [LR101]

LARRY ANGLE: Correct. [LR101]

SENATOR LANGEMEIER: Okay. Any other questions? Seeing none, thank you very much for your testimony. Further testifiers on LR101. Welcome. [LR101]

KELLY KLENKE: Good morning. My name is Kelly Klenke, K-l-e-n-k-e, and I live on West Fletcher outside of Malcolm and in the area of the development that started this whole process a few years ago. I guess I just want to come up today and express our concern as a resident in an area where water supplies are limited. The fact that currently there are no regulations on the number of domestic wells in areas where water is a problem. We have experienced personally water issues with our well. We've been at our current site for 15 years, and when we first moved in the well was there, and it was pumping nine to ten gallons a minute...adequate. We have to make sure that we only run one appliance at a time, that nobody flushes the toilet when we're in the shower, you know, the typical type of management issues that you work with when you're on an acreage. Approximately five years ago, our neighbor to the east has a 20-acre parcel, and they allowed a nursery company to come in and plant trees on 20 acres out there. They proceeded to irrigate out of a domestic well 24/7 pumping every day for the full summer, and our well went down to like five gallons a minute, and we ran into a lot of problems with sediment. We had our well tested, and we came up at 33,500

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parts per million of dissolved sediments and as well as we were drawing sand and salt and things like that. So even though that we were there, and we had adequate water supplies, the impact of a resident coming in, and in this case, using a domestic well for irrigation did drastically affect our well. And not only affected our well, but it affected wells that were right adjacent to the property. We are approximately a quarter of a mile away from that property, and it drew down our water as well. Now, have we ever been able to prove it? No. As a domestic well owner, since there are no regulations outside of if they go in and they register that well to be an irrigation well, they can go ahead and do it. If I wanted to sue them to keep them using the water so that I can maintain water at my own house, I would have to go about doing that on my own which would run thousands of dollars. So at the current time, there was no regulations in place that would keep them from irrigating like it sounds like there is in the Lower Platte North NRD, and so homeowners are basically on their own. I guess our concern is what is out there that's going to protect current residents and is going to protect future residents, so when they build these houses in a few years' time as more impact occurs on the limited groundwater supplies in these areas of the state, are they going to have water for that house? If I want to sell, am I going to have an adequate water supply that will make my house valuable enough to sell? When you look at a very condensed area like we live in, in the northwest portion of Lancaster County, when you have an area of 50, 70, 100 acres where you currently have maybe 30 or 40 people drawing from it, and you're going to add another 50 wells on that area, you're talking about straws going into the ground, pulling from the limited supply. If you have ten straws pulling from the limited supply, you're probably going to be able to manage that water pretty good. If you go, and you start pulling 80 straws from that limited supply, how long is that water going to last especially in drought conditions and especially considering we are in an area where we don't have an opportunity to do a rural water district. There's no water in our area that can be moved in. So as a homeowner standpoint, it would be nice to have some recourse to ensure that we are going to be guaranteed water as best as can be guaranteed. New homeowners, especially those coming from a residential urban setting to a rural setting, aren't very knowledgeable on water, water use, and what they can and

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can't do. They expect to build this beautiful house and be able to have a dishwasher and their washing machine and five bathrooms and four kids running water at all times. And it just doesn't work that way. And it's especially people like that that need to have the protection in place that if they build this beautiful house, they're going to be able to have water to support that house in years to come. So that's my concern. And we've talked a lot about the irrigation well. There are regulations in place for irrigation wells, domestic wells. Anything below 50 gallons, there are not regulations, so you can come in with a development and put 23 wells in a 70-acre parcel and expect to, you know, expect to say yep, you've got water right now. I've got water today. But in ten years' time if we go through a drought scenario, is that house going to have water? So that's my concern. [LR101]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Dubas. [LR101]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you for being here. Have you or any of your neighbors ever approached the County Planning Commission or your particular NRD for help or placement of regulations? [LR101]

KELLY KLENKE: Well, every time that there's a development in our area, we have attended the meetings for approval or disapproval of that development. The particular development that is in question or that was approved that sort of started this whole thing, a few years prior to that there was a proposed development just on the north side of the road that divides the two properties. That development was denied even though they wanted to basically set up a similar type of development with...I think at the time she wanted maybe ten 5-acre parcels, and then she went to ten acres. But anyway, the zoning for that particular parcel was a different designation than the one that got approved. And she had done a major water study and I think it was determined that there was not an adequate supply to support a development of that size. And so, the homeowners of the area, we all presented testimony, and it's all documented with the

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Lancaster County Planning Department about the impacts that had happened and about the need to realize that they really should only have 10-acre parcels in areas like this. When this other development came up which is just on the south side of that very street, since it was designated as a different zoning, I think that was part of the reason that it was approved even though we presented the same evidence, even though there were discrepancies in water reports, and even though they did put in the stipulation that they have to have a working well before they sell the property. They still went ahead and approved it. And so in our mind, it was...a physical road that's put in by man does not designate whether there's water or not. And our concern is, yes, there may be a pocket of water on that particular property because there are some homeowners in that area that have wonderful water. I have a friend that lives in that area, and his well is not very deep, and he's able to pump out of it almost 24/7 and get very wonderful water. Other homeowners that live less than a quarter of a mile from him have had to go through one or two wells already because they've run out of water. That's how spotty that water is there. And so, yes, we did present the information. We have talked with the planning department about it in the past, and they are aware of our concerns. [LR101]

SENATOR DUBAS: Have you broached the subject as far as changing some of these zoning designations, you know, to change some of those? [LR101]

KELLY KLENKE: Individually, some people may have talked with them about changing some of the zoning designations on...are you talking about the current comp plan? [LR101]

SENATOR DUBAS: Um-hum. [LR101]

KELLY KLENKE: I don't know if we have directly. I think we've talked about it amongst ourselves, and the comp plan, I believe, comes up for review quite frequently, and I think we have discussed the possibility of going in and saying, hey, we need to have these areas designated differently. It was just that one little pocket that was not



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designated strictly agricultural, and so that was the reason for that one. [LR101]

SENATOR DUBAS: Well, I certainly understand and appreciate your concerns, and I think you've raised some very valid issues. I'm a former planning board member, so, you know, I understand what zoning regulations can do and how they can work to protect the citizens in particular areas. And so I kind of...along some of the questions that Senator Fischer has asked, are we better served by having statewide statutes or are we better served by letting the localities deal with it? And, again, as a former planning board member, if this was going on in my particular area, I would want to have that option of working on it as a zoning board member, so that I could address those particular concerns, and I do hope you pursue working with the zoning board. [LR101]

KELLY KLENKE: Yes. And, you know, we have discussed that extensively, and we understand that locally is probably your best bet. But we also understand that we're not the only ones that are having this problem. And we just...we don't want to limit people from being able to move out to the country. We moved out to the country because that's what...where we want to live. And we understand how nice it is out there, and if people want to move out there, they should have the ability to do that. But they also deserve the right to have their land, their home, their future protected. And if you have a house that doesn't have an adequate water supply, the value of that land and that home is gone. And so all the hard work that anybody puts into it is lost, and if there's no protection for current residents and future residents, where do we go? It would have cost my family and the families in the area thousands of dollars to keep those people from pumping water on the 20 acres with all those trees. Luckily, I think once they got established, they stopped watering so much, but we just didn't have the resources at that time to pursue that and to protect our own livelihood. And so that's why we're here and wanting to see if there are other options to pursue for not only us, but for people throughout the state. [LR101]

SENATOR DUBAS: Thank you for bringing your information forward. [LR101]

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KELLY KLENKE: Um-hum, thank you. [LR101]

SENATOR LANGEMEIER: Very good. Senator Haar. [LR101]

SENATOR HAAR: Thank you, Senator Langemeier. Kelly, thanks for coming. [LR101]

KELLY KLENKE: Um-hum. [LR101]

SENATOR HAAR: Now in the case here in Lancaster County, what did the planning commission recommend? [LR101]

KELLY KLENKE: They went ahead with the recommendations of the 3-acre parcels which was the minimum...well, I don't even know if it's the minimum division, but it's what the developer came in as wanting to have on this...I think it's like 70- or 75-acre parcel. And so, in that particular instance, they went ahead and approved and recommended that it proceed at the 3-acre parcel. [LR101]

SENATOR HAAR: Okay. Now I understand that you were told at one of the meetings, buyer beware. How does that fit you? (Laughter) Tell me your feelings here. [LR101]

KELLY KLENKE: The developer had a meeting on-site and invited the current residents to come out and look at the plan. And they told us what they had envisioned, and the question came up, well, what about, you know, water supplies? And the company that the developer had hired to do their work basically said well, it's a buyer beware situation. In other words, the buyer is the one that has to understand the limits and the possibility that they may not have water suitable for the uses that they envision they can have at that house. And so basically, they were taking the responsibility to ensure that there was adequate resources available for those buyers. [LR101]

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SENATOR HAAR: And buyer beware really doesn't work for you who bought there 15 years ago. [LR101]

KELLY KLENKE: Well, no, I mean we're there already, and most of the people in the area have been there for years. And so they've had...well, in most cases they've had adequate water. Some people have had to put in new wells and things like that, so really it had no effect on us except that we would have to live with the consequences of having 23 more wells in that area that already has water concerns. [LR101]

SENATOR HAAR: And the current is for the 3-acre lots, is that? [LR101]

KELLY KLENKE: I believe they are 3-acre lots out there now, so there's 23 of them? Twenty-two 3-acre lots out there. [LR101]

SENATOR HAAR: Okay. Well, thank you very much for testifying. [LR101]

KELLY KLENKE: Um-hum, thank you. [LR101]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much. You did a great job. [LR101]

KELLY KLENKE: Thank you very much. [LR101]

SENATOR LANGEMEIER: Further testimony on LR101. Welcome. [LR101]

MERLE WILKEN: Good morning. My name is Merle Wilken, W-i-l-k-e-n. I'm a current resident near the property that we've been talking about, and I want to correct one thing that was just answered about the City County Planning Commission on this particular development. They unanimously voted it down. The county board overruled them, so that was three people that overruled the City County Planning Commission had

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unanimously voted against this. And three county commissioners voted for it, so we're stuck with it, and how that zoning came about, Harold Busboom, years ago, owned some ground that was in Pawnee Lake. And his farm was going to be flooded, so he bought some other ground and as an appeasement to him, they zoned it this way. They didn't see the far-reaching effects that it would have on so many families, not just the current ones, but the ones that come in. Now I've lived there 35, 36 years, something like that, and I'm on my second well. The property just to my south is in foreclosure. They don't have any water. Kind of hard to sell a house without water. I had been letting the people there before us my water. And the house south of that property is on their second well. So, and as far as the getting the state involved, when you have the City County Planning Commission vote against this, and then you got three county commissioners out of five that the good old boy neighborhood deal, and they vote for it, then the City County Planning Commission is mute. It just doesn't matter. So...and I'm not saying all county commissioners are like this, but I personally know some of these fellows, and the one that represented me told me before this that he was going to vote against it. And so we thought, well, you know, we're doing all right. Well, when it come to the vote, he voted for it. And it was (laugh) very frustrating, to say the least. So if we can't get the county commissioners throughout the state to, you know, agree on this problem, then I feel the state has to get involved just to protect the residents that live there, the future residents that want to bring their family out there and raise them. And I'll take any questions. [LR101]

SENATOR LANGEMEIER: Okay. Are there any questions? Senator Haar. [LR101]

SENATOR HAAR: Senator Langemeier, thank you. Thanks for coming in, Merle. [LR101]

MERLE WILKEN: Um-hum. [LR101]

SENATOR HAAR: Did you worry about water when you moved out there 35 years ago

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or? [LR101]

MERLE WILKEN: No. [LR101]

SENATOR HAAR: Wasn't really a concern at that time, so buyer beware didn't...doesn't make much sense. [LR101]

MERLE WILKEN: No, it didn't. No. But there again, some of the other folks have brought up. I had never lived in a...per se a big town. Emerald is about the biggest town I ever lived in, and that's not very big. But...and we had plenty of water problems in Emerald. They're well aware of it...salt water. But when you grow up with it, you just learn to tolerate it. So when I went out there, and I've got a well, my second well, that's roughly eight gallons a minute, you know, that's right on the borderline as far as I'm concerned of whether to run a household. And now with our kids gone, it's just me and my wife, but there again, you don't do two or three things at once unless you want somebody in the shower to get, you know, scalded or get cold so. [LR101]

SENATOR HAAR: Okay. Thank you very much for coming. [LR101]

MERLE WILKEN: You bet. Any other questions? [LR101]

SENATOR LANGEMEIER: I do. Mr. Wilken, thank you for your testimony. Just curiosity at this point, you talked about you're on your second well. [LR101]

MERLE WILKEN: Um-hum. [LR101]

SENATOR LANGEMEIER: How did you remedy it? Did you look for a different pocket of water on your property or did you go to a different depth or what did you do when you said you're on your second well? What was...how did you resolve that? [LR101]

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MERLE WILKEN: Well, the fellow that drilled my well, he is no...I don't even think the second well is...I'm not even sure if he's alive yet. But he just went...my dad (laugh) witches wells, or did. My father is gone now, but...and he never witched a bad one. And some people turn their nose up at it, but I've seen it work, and so I had my dad witch another well for me on my property. And I told the well driller that, and he kind of laughed at me a little bit, and he says, well, since there's trees right here, how about if we witch over here about 10, 12 feet? It'd make it easier to get my rig in, and I said, I think that's close enough so. [LR101]

SENATOR LANGEMEIER: So did you go to a deeper depth or you just...a different spot? [LR101]

MERLE WILKEN: A different spot. I'm about 80 some feet. [LR101]

SENATOR LANGEMEIER: Okay. [LR101]

MERLE WILKEN: And that is a little deeper than my first well. My first well, I was 70, 75 feet, and I had flour sand, so we had a filter inside the house to stop it. But now with the second well, and it's probably...I don't know, maybe a hundred foot west of where the old well was. But there again, it's about somewhere between six and eight gallons a minute. We have no sand, and we're a little deeper, and I don't know if that's the well drillers--he packed it better or whatever the case might be. But...and it's good tasting water. But the house next to me, when they built they put down six test holes and never found water, so they went up on some of this same gentleman, Harold Busboom, and drilled another well up there, and it was oh, 200 and some feet. It was a real deep well. And if they would pump it too hard, they would get into the salt. And so they had trouble with that well, so the house didn't know that when they bought the property, but...and then that well eventually got in trouble and the folks directly to my south, Dave and Sue, they tried four or five more test holes on that ground, and never found anything so that's why I let them come up on me but. [LR101]

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SENATOR LANGEMEIER: Okay, very good. Are there any...Senator Haar has another question. [LR101]

SENATOR HAAR: Yes, one more question. Thank you. And I don't know the answer to this question either, but as a citizen in that situation where a zoning decision was made that basically threatens your property, what's your recourse? [LR101]

MERLE WILKEN: Nothing now, as of now, nothing. It would be pretty hard to prove. [LR101]

SENATOR HAAR: Okay. Thank you very much. [LR101]

MERLE WILKEN: Um-hum. [LR101]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much for your testimony. [LR101]

MERLE WILKEN: You betcha. Thank you guys. [LR101]

SENATOR LANGEMEIER: You did a very good job. Further testimony on LR101. Welcome. [LR101]

LYNNETTE NELSON: Hi. My name is Lynnette Nelson. I'm also one of the neighbors that was involved in disputing the development that tried to come into our neighborhood. [LR101]

SENATOR LANGEMEIER: For the record, I need you to spell your name, please. [LR101]

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LYNNETTE NELSON: Last name is Nelson, N-e-l-s-o-n. [LR101]

SENATOR LANGEMEIER: Thank you. [LR101]

LYNNETTE NELSON: Sure. When we were...there's about 30 of us neighbors that were in dispute of this project because we were concerned of the water issues. When we got together, we decided to hire a water engineer to help us with our case, not an attorney. One of the things that was frustrating was that when we had the water report completed, there was an engineer from Ithica, Nebraska, that did the water report on the project. He had used a minimum standard of 50 gallons per person in calculating the adequacy of the water for the project. The industry standard should be approximately a hundred gallons per minute. That is what our water engineer had suggested. This was brought up at the planning commission hearing, and those commissioners had asked Mr. Hanson why he chose 50 gallons per minute, and he said, well, that's about the amount of water that me and my husband, or excuse me, husband and wife use. Everyone then asked, well, why did you not use a hundred gallons per minute? And Mr. Hanson said it's because there would not be adequate water for the project. What we were frustrated with is there's no minimum standards. We need to have something that can be used as a guidance line, not just for Lancaster County, but for the state because as you read in the paper, Nebraska now is considered the number one irrigated state in the nation. That to me is kind of scary. You hear in the newspapers there was a dairy farmer that was in Minnesota that purchased thousands of acres in western Nebraska, so he can move his dairy farm there. Why is he moving that farm? Because we have adequate water right now in that area. If I was the neighbors in that area, I'd be greatly concerned. We need standards across the state because water is forever going to be depleted as we continue to keep developing. When we do the well tests, we should make those wells be put in a build-out situation meaning if you're going to be a developer, and you're going to put in 22 lots, you need to put those wells in the 22-lot format. In our situation, the wells when they were tested for this project were just in one corner of the property. They weren't in all four corners, and they weren't in a build-out situation, so



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how do you truly know that you have adequate water for the layout that the developer has chosen? You really don't know. The wells are not pumped at the same amount of time because they're not required to. There's no requirements of how that well report should be completed. We had a unanimous decision by the planning commission members that the project was completely denied, but when it went to the county board, it was approved. It was frustrating for us because our comments at all times were there's no minimum standards. The actual planning department had actually approved that project, and the suggestion was to have it approved because they really had no ability to deny it because they did find water on some of the wells that were selected on the site. We felt our hands were tied. We'd like to see disclosures, perhaps the buyers that when they're going to the building permit process, that they actually are given a disclosure telling them that this is perhaps the suggested minimum water standard, and they need to know what their liabilities are when they build a home. They're not going to have a fire department down the street; they're not going to have a fire hydrant on the corner, just making sure that they're aware of what they're getting themselves into. And some of the other things--when we looked at the rural water study, Lancaster County really doesn't have the availability to bring in rural water to our area; it just isn't feasible. The cost is excessive. It would cost thousands of dollars for homeowners. The nearest water source at the time they did the study in '93 was around approximately Bee, Nebraska, to bring it up to our area. It just isn't feasible at this time. Those are just some of the concerns that I have for our water situation. We just need to have some suggestions or guidance that planning commissions can have in reviewing projects.

[LR101]

SENATOR LANGEMEIER: Very good. Are there any questions for Ms. Nelson? Senator Haar. [LR101]

SENATOR HAAR: Senator Langemeier, thank you. Thanks for coming, Lynnette. I would ask the same question that I asked of Merle. Do you, as a citizen, know what recourse you have if the county board approves that kind of situation that threatens your

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property? [LR101]

LYNNETTE NELSON: We do not have any recourse. That there are...I mean if our water is dry, it's up to us to try and locate a new well on our property. That's the other thing. By putting all this development and concentrating it, you're starting to put neighbors against neighbors. Everyone should have the right to put a swimming pool in their house if they want to do that, to be able to use water as they wish. But in our neighborhood, everybody's very observant how many, you know, how people use their water. There's a new home that was built in our area. They cannot put a lawn sprinkler system in because their wells could not support it. In our area, we really don't water our lawns. We just...we water our gardens as best we can, but there's not enough adequate water to water our lawns. [LR101]

SENATOR HAAR: The buyer beware argument, how does that apply to you? [LR101]

LYNNETTE NELSON: It was a very true statement. When the engineer that was representing the developer told us that, he really kind of summed it up. It is a buyer beware situation, and that's the other thing. When lenders are putting 30-year mortgages on homes, they also want to make sure that home has adequate water for 30 years, and at this point, there is no guarantee. As you heard Mr. Wilken say, a home is in foreclosure in our neighborhood that doesn't have a well hookup, and it's going to be very difficult for that home to find water. It's only on an acre and a half. What is that bank going to do with that foreclosed home if there's no water? It's worthless. [LR101]

SENATOR HAAR: And I guess often we depend on things like banks to protect us. [LR101]

LYNNETTE NELSON: We do, and there's no current lending guidelines that require they test for nitrates, but they do not test for adequacy. There is nothing at this point in the lending regulations that cover that. [LR101]

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SENATOR HAAR: Okay. Thank you very much. [LR101]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much. Did a great job. Further testimony on LR101. Good morning and welcome. [LR101]

PATRICK CONOVER: (Exhibit 2) Good morning. My name is Patrick Kevin Conover, C-o-n-o-v-e-r. My testimony on this is kind of broad just for the fact this is not a new topic especially to the Lancaster County area. You know, there have been other developments in this area in regard to would be the First and Fletcher area, way prior to The Links, way prior to Fallbrook going in, but the development that was done there years ago, and the overdevelopment of this, and these people have had these water problems for years. You know, it's...you know, some people one day can get water, you know, but what I basically was stating that if you use too much water, you have to wait for your well to regenerate, you know, the water come back in. So this is not a new problem to this area by any means. It's been stated about the water report that was done about possibly bringing rural water to this area which was, I believe, the study was done in '92 for multi-millions, like \$19 million or some ungodly amount of money which was...you know, and I think, if I remember, it was Bee or Adams, Nebraska, which may have had the well fails, both of them outside the county. I believe they're both outside the county, but regardless, that's a lot of money, and this was in 1992, you know, so to bring, you know, us water out there would be rather substantial. You know, Lynnette mentioned about the buyer beware thing signed prior to taking any permits out. I think it would be a better statute that before a loan was given on it, that the folks, you know, there's one gentleman that lives out by Raymond, Nebraska, that he bought the land; he started to build the house, and they started drilling holes for the water, and subsequently, he's got a basement (laugh). And, you know, he pretty much built or used up all his loan money trying to find water, you know, so there's sometimes we go into these things blind and don't realize, you know, like it was being testified earlier, people

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moving out, you know, thinking water is always there coming from the city situations. Like it was stated before, you know, the planning commission denied this unanimously zip across the table--all amendments, all...everything to it. And then the county board chose to go against their recommendations. And Senator Haar, you said, well, what was our recourse on that? And at the time, we were not informed that we could have appealed that decision if done within the 30 days, but I don't believe the county board is required to inform us of this, so we didn't find this out until it was too late because we did finally hire a lawyer to see if there's any recourse, and basically, they said, no. You know, we spent some money on that. This is not a new issue, and, like I said, you know, we got one government entity saying no. We've got another one that can override this one with less amount of people says yes, and that's where your belief is and my belief is that we need some, you know, more jurisdiction, little more guidelines than just, you know, yes and no here. We need something stated or we need it written down, and it does need to be statewide, you know, and also I just got to add, this is not a problem just in the state of Nebraska or Lancaster County, you know. This is nationwide, and you know, in fact, Australia is probably one of the biggest ones right now with the biggest water problems in the world. So this is, you know, is becoming a very big issue everywhere, and I think it needs to be started to be reigned in a little bit, not just because somebody says, yeah, go ahead and do this; it's not going to hurt me. You know, none of the people that voted for this live directly in this area, so it's not going to harm them, you know. And that's all I got. [LR101]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Conover? Seeing none, thank you very much for your testimony, and we will also submit your letter in to the record as well... [LR101]

PATRICK CONOVER: Thank you. [LR101]

SENATOR LANGEMEIER: ...that you've already submitted. Thank you. Are there any other testifiers on LR101? Seeing none, Senator Haar, did you want to close? Senator

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Haar waives closing. I have a number of letters I'm going to read into the record. As I said before, Patrick Conover from Lincoln has submitted a letter, and we'll add that. Eunice Cernohlavek from Lincoln--I hope I said that right. It will be right in the record. Vicky and Tom Sindelar from Lincoln have submitted a letter. Dale and Lynnette Nelson from Lincoln have submitted a letter. And then I have two more that didn't ask it to be in the record, but due to the weather conditions, maybe they were going to come testify, so we will enter their e-mails into the record--Vern Barrett and I'm pretty sure he's from outside Swedeburg or that Swedeburg area, and then Ceresco would be his actual address. And then Ross Larson who lives south of Wahoo and the Swedeburg area; it's affecting him. So we will add those letters into the record as testimony, and with that, that concludes our hearing today on LR101, and we'd like to thank everybody that came and participated. We appreciate it very much and have a great day and a safe trip home. (See also Exhibits 3, 4, 5, 6, 7) [LR101]