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Natural Resources Committee  
January 24, 2013

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[LB91 LB203]

The Committee on Natural Resources met at 1:30 p.m. on Thursday, January 24, 2013, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB91 and LB203. Senators present: Tom Carlson, Chairperson; Lydia Brasch, Vice Chairperson; Annette Dubas; Ken Haar; Jerry Johnson; Rick Kolowski; Ken Schilz; and Jim Smith. Senators absent: None.

SENATOR CARLSON: Welcome to the Natural Resources Committee. I'm Tom Carlson, senator from District 38, Chair of the committee. And the committee members are, from my far left, Senator Rick Kolowski from Omaha, District 31; Senator Ken Haar, from Malcolm, District 21. Next to him will be Senator Jim Smith from Papillion, District 14. And then Senator Ken Schilz from Ogallala, District 47. To my immediate left is Laurie Lage, our committee counsel. And then to my far right is Barb Koehlmoos, the committee clerk. And then two chairs over is Senator Lydia Brasch from Bancroft, District 16; and Jerry Johnson from Wahoo, District 23. Senator Brasch is also the Vice Chair of the committee. And then Senator Annette Dubas from Fullerton, District 34. Our pages are Tobias Grant, wave or stand up.

DAVID POSTIER: He ran to get some copies.

SENATOR CARLSON: Oh, okay, he went to get something; he's from Lincoln, but he is a senior at Doane. And then we have David Postier and he's from York, a sophomore at UNL. And today we're going to have the hearings on LB91 and LB203. If you are going to testify, please, if you haven't done so, pick up the green sign-in sheet that is on the table at the back of the room. And if you don't wish to testify, but want your name entered into the record as being present, there is a form at the table you can sign for that. And this will be a part of the official record of the hearing. Please fill out the entire sheet, the green sheet, before you testify; print so we can read it. And then when it is your turn, turn in the sheet in that box next to Barb, our clerk, and this gives us an accurate public record. If you don't choose to testify, but you could submit something in writing and have them read into the official record, so that's an option as well. If you have handouts, hopefully you have 12 and they would be handed to the pages and they won't be returned to you. If you have handouts and you don't have 12, ask one of the pages and they will help you with that. When you come up to testify, sit down in the chair. You don't need to touch the microphone; doesn't matter whether you're tall or not tall, because that microphone will pick up your voice. And so you don't need to touch that. Speak clearly. Tell us your name, first and last name and then spell it; and if you don't do that, I'll stop you and ask you to spell your name. That just makes our record completely clear. All of us need to turn off our cell phones or any electronic device that could be an interruption and would ask you to do that. I know that's not going to be a problem, but if we had every seat filled in here, this would be more important to say, but there will be no visible displays of support or opposition to a bill. That is not allowed and

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that helps keep everything in a civil tone and I think we have a pretty good way of doing things in the Legislature and keeping our hearings the way they should be. We have a light system; we're not going to use it today. We have two bills and I don't think that's going to be necessary. But that doesn't mean you shouldn't strive to be talking about five minutes or less, and if you have a 30-minute sermon, then I'll have to stop you someplace along the way. Are there any questions about how we will proceed? All right, let's start with LB91. And Senator Haar will introduce it. Welcome.

SENATOR HAAR: Thank you. Chairman Carlson, members of the committee, my talk will be only 25 minutes, so. (Laughter) I'm introducing this bill today for the geology board. And just a few bullet points here and then you'll actually hear from the vice chair of that board. LB91 requires professional geologists to respond to disclosure questions on the application for license renewal to determine fitness to maintain a license and allow denial of a Nebraska license based on responses. Additionally, adds a provision for reciprocal licensure by experience for applicants who meet the requirements, allows applicants to take the fundamentals of geology examination upon substantial completion of the educational requirements. And if you have questions about this, we will have the vice chair of the geology board, Marty Link, will follow me. Thank you very much. [LB91]

SENATOR CARLSON: Boy, you still had 3 minutes and 35 seconds to go. (Laughter) Thank you, Senator Haar. Any questions from the committee? Okay, thank you. [LB91]

SENATOR HAAR: Thank you. [LB91]

SENATOR CARLSON: And let's have our first testifier, proponent of the bill. How many proponents do we have that are going to testify? [LB91]

SENATOR HAAR: Just one. [LB91]

SENATOR CARLSON: Just one, okay. Welcome. [LB91]

MARTY LINK: Thank you. [LB91]

SENATOR CARLSON: We talked about the cold a little while ago, didn't we? [LB91]

MARTY LINK: (Exhibit 1) We did, I thought that was you when I was walking up. (Laughter) Good afternoon, Senators. My name is Marty Link, that's spelled M-a-r-t-y L-i-n-k. I work for the Nebraska Department of Environmental Quality, but today, however, I am representing the Nebraska Board of Geologists. I'm a member of the board and I serve as the vice chairperson. The Nebraska Board of Geologists is testifying today in support of LB91. The Geologists Regulation Act was enacted in 1998. The act provides for the certification and licensure of professional geologists in Nebraska whose activities may affect public health, safety and welfare. There are about

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300 licensed professional geologists in Nebraska and 62 businesses that carry a certificate of authorization, meaning, basically, that they employ geologists and they also prepare geologic reports. As I mentioned earlier, the Board of Geologists is testifying in support of LB91. I'd like to highlight a few of the changes as Senator Haar kind of pointed out to start with. In Section 1, this section opens up the education member of the board to professional geologic...or faculty from a geosciences program in a college or university, any college or university in Nebraska; not just the University of Nebraska, which is what it was previously. This allows more flexibility in finding qualified board members. The next major one is in Section 4 and adds a disclosure requirement for licensure application and renewal. The board feels it is important to have information on the applicant's fitness for licensure. And additionally, this same kind of disclosure is required by the engineers and architects and by the water well drillers and similar organizations and agencies...or boards in other states. In Section 6, we make allowance for persons licensed in other states with at least 15 years of practice, and as long as they're in compliance with the other states' laws, for them to be eligible for licensure in Nebraska. This is common practice in other states and in the engineering world as well. This new wording would better clarify the reciprocity with other states' licensing. Several of the other changes are more housekeeping in nature and I'd be happy to answer questions about them or anything else that you might think of as you're thinking of it. Maybe you haven't thought about it too much, but thank you for the opportunity to be here today. [LB91]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions of the committee? Yes, Senator Kolowski. [LB91]

SENATOR KOLOWSKI: Thank you, Senator, I appreciate it very much. Ms. Link, you mentioned that the act was enacted in 1998. [LB91]

MARTY LINK: Yes. [LB91]

SENATOR KOLOWSKI: Were there any modifications up to this point in time? Any amendments or additions or subtractions that you know about? [LB91]

MARTY LINK: I've been a board member for about three or four years and there haven't been in that period. And I'm not sure of anything else, but I don't think there has been a lot; or if there has been anything, I don't really...I don't know, but I don't think so. [LB91]

SENATOR KOLOWSKI: Not of a major nature. [LB91]

MARTY LINK: Yeah. [LB91]

SENATOR KOLOWSKI: Okay, thank you very much. [LB91]

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MARTY LINK: Yeah. [LB91]

SENATOR CARLSON: Okay, thank you. Any other questions? Now you may have said this, and if you did, I'm sorry I missed it. What's really the purpose here? [LB91]

MARTY LINK: I think we went into this change...this proposed change mainly because of the disclosure thing on the application. The new disclosure would be the moral fitness, moral...the word I can never say, starts with a "t". [LB91]

SENATOR KOLOWSKI: Turpitude. [LB91]

MARTY LINK: There you go. I knew that if I kept on saying it wrong all day I'd get here and not be able to say it at all. Yeah, moral issues with the applicant or renewal license. That's one of our main purposes. And then we saw opportunity to clean up some other things. The board member from...on the education standpoint was almost problematic this last year. We don't have that many people in the university system that are actually licensed geologists. And that is what needs to be...someone like that needs to be on the board. [LB91]

SENATOR CARLSON: Okay, all right, thank you. Any other questions? Yes, Senator Johnson. [LB91]

SENATOR JOHNSON: Yeah, thank you, Senator Carlson. A little bit of background for me. This talks mostly about the qualifications and the procedures. What are some of the main functions that the board does that need these qualifications? [LB91]

MARTY LINK: The Board of Geologists runs the licensing program for geologists so that we are sure that geologists have proper education and training, that they have proper experience, and there is actually a couple of national tests that they...that people pass before they're eligible to become licensed. So that's to make sure the education is correct, the satisfactory experience, and then they're....we deem them then to be worthy of and capable of doing good geology in the state of Nebraska. [LB91]

SENATOR JOHNSON: So after they get their license, they're kind of on their own as far as what they do. [LB91]

MARTY LINK: Yeah. [LB91]

SENATOR JOHNSON: This board does not govern what somebody does or doesn't do, it just talks about qualification. [LB91]

MARTY LINK: Exactly. [LB91]

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SENATOR JOHNSON: Thank you. [LB91]

MARTY LINK: Yeah. [LB91]

SENATOR CARLSON: Okay, thank you. Any other questions? That brings kind of a question, because I think the experience...the amount of experience required is good, but as a geologist, how does someone get experience so that they can be licensed? [LB91]

MARTY LINK: Right, you can be working for someone who is a geologist and get that experience. And then you just...you don't get to sign something as a professional geologist, but you can be working under someone and prepare reports and then the professional geologist would sign it after reviewing it themselves. And then after five years, the initial five years, then you're eligible to take that second national test and become certified...licensed in Nebraska. [LB91]

SENATOR CARLSON: So being licensed as a professional geologist automatically brings into the understanding that not only are you capable, not only do you have the knowledge, not only have you passed the proper exams, but you have had experience. [LB91]

MARTY LINK: Right. [LB91]

SENATOR CARLSON: Okay. All right, thank you. Any other questions? Yes, Senator Brasch. [LB91]

SENATOR BRASCH: Thank you, Chairman, and thank you for your testimony today. [LB91]

MARTY LINK: You bet. [LB91]

SENATOR BRASCH: I'm wondering...I see there are 300 licensed geologists. [LB91]

MARTY LINK: Uh-hum. [LB91]

SENATOR BRASCH: Is this number constant, or has there been an increase or a decrease in the number of licenses in this area? [LB91]

MARTY LINK: It has gradually increased since the board took effect in '98, yeah, it's gradually...we just passed over the 300 mark just last year. [LB91]

SENATOR BRASCH: And also curious, with the flooding along the Missouri River last year, did that affect your...the people in your field, were you... [LB91]

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MARTY LINK: Everybody was busy. (Laughter) [LB91]

SENATOR BRASCH: I imagine that was so, that that was probably active duty, more or less. [LB91]

MARTY LINK: Almost, yeah. [LB91]

SENATOR BRASCH: Almost, okay. And are studies ongoing from this, or any data being collected? [LB91]

MARTY LINK: I think there's data being collected. The levee work was especially interesting to people in the geologic world. And then how the river moves around after some big major event like that, that's all very interesting. And people who work for consulting firms or for the Corps of Engineers are gathering that kind of data and that information. United States Geological Survey, USGS, they do a lot of that too. [LB91]

SENATOR BRASCH: I know that is very valuable information and I am very curious moving forward what the impact of that flooding... [LB91]

MARTY LINK: Yeah. [LB91]

SENATOR BRASCH: ...has been and will be. [LB91]

MARTY LINK: It changes the world a lot. [LB91]

SENATOR BRASCH: Absolutely. Thank you for your work. [LB91]

SENATOR CARLSON: Okay, thank you. Any other questions? Seeing none, thank you for your testimony. [LB91]

MARTY LINK: Thank you very much. [LB91]

SENATOR CARLSON: Um-hum. Are there any other proponents? Anyone testifying in opposition? Or anyone testifying in the neutral position? Seeing none, Senator Haar waives closing. And with that we close the hearing on LB91. We'll now open the hearing on LB203, and Senator Scheer is here to open on that bill. Welcome. [LB91]

SENATOR SCHEER: (Exhibit 2) I am indeed, thank you. Good afternoon and thank you, Chairman Carlson and members of the Natural Resources Committee. My name is Jim Scheer, J-i-m S-c-h-e-e-r, and I represent District 19 in the Nebraska Legislature. I'm here to introduce LB203 which defines the term "products" in the Environmental Protection Act and goes on to exclude "products" from the definition of solid waste. This

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bill is a culmination of conversations that I've had with Nucor Steel which has two facilities in Norfolk, Nebraska. Nucor Steel has four locations total in Nebraska and employs about 900 people throughout the state. It is a Fortune 500 company known for producing steel. Additionally, I might add, it is the United States' largest recycler, handling more than 20 million tons of scrap metal each and every year. In the steel production process, two products are created, actually, steel and slag. The technical definition provided by the American Society of Testing and Materials states that slag is a nonmetallic product consisting essentially of calcium silicates and ferrites, combined with fused oxides of iron, aluminum, magnesium, calcium and manganese that is developed substantially with steel and the basic oxygen, electric arc, and open hearth furnaces. Now if you're similar to myself, that didn't really mean a lot. And I will give you what my technical definition of the process is, and it's essentially making butter and milk. They...when you make butter and milk, you churn the product; you end up with butter and you end up with milk. They're both products that were intended to be produced from that process and both slag and steel are intended products from the manufacturing process that steel producers would do. Slag is marketed as a product and a very...in a...of different industries including agriculture, building, and road construction. Slag's anti-skid properties make it extremely important in the road construction. In fact, it is used...the use is encouraged by the Department of Transportation in federal and state road projects. Slag is used as an aggregate in buildings as well. For example, it was used in the Chicago Marina Towers pictured in the information packet that you'll be receiving. In agriculture, slag is used as a soil stabilizer and a replacement for lime. Slag is an important product for the Nucor Steel Company. It has been defined...it has defined markets. It's produced to a certain standard and has many well-established uses. Currently, slag has a beneficial use designation by the Department of Environmental Quality. We are now seeking the certainty of placing slag into the statutes provides. Nucor is introducing similar legislation in other states that it produces product in so that it has the "assurity" of uniformity across the United States. Two individuals from Nucor are here and its partner company that deals primarily with the slag, Tube City, are here to provide additional technical background on the issue and answer those type of questions. I would also note that, unintentionally, I believe the term "product" is very broad. You can consider that my freshman mistake. But we have worked very hard on developing something that will refine that to a much smaller extent and that singular item is on page 6, on line 17 of the draft bill. Certainly, you are able to do what you wish with it. This is just a sample of what we were able to come up with. And I would also add that the Sierra Club, I believe, sent...which I was copied a note to Senator Carlson, concerned as well about the term "product" and I have responded to Ken and told him that we, as well, were concerned and have been working on additional definitional description. And we're sending him a copy as well so that he has a copy of everything that we're providing you, as well, today. And I...last, but not least, visual things are much easier for people to understand. This is slag. And I'll be leaving it with you. And for those of you going back to the recycling, this was part of a Ford Motor Company vehicle yesterday.

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This is less than 24 hours old. (Laughter) And feel free to discard it, you don't have to keep it. But I just thought it might help those that have never seen it. And I note that in earlier conversations with Senator Kolowski, he had a different impression of slag, because where he grew up there was a product slag, but it was nothing similar to what we're suggesting today. So trying to make sure that we're all on the same wavelength that exactly what we are talking about. And I'd be more than happy to answer any nontechnical questions that you might have. [LB203]

SENATOR CARLSON: Okay, thank you, Senator Scheer. Any questions for him? Yes, Senator Haar. [LB203]

SENATOR HAAR: Well, I'll direct this to someone that follows you, but you say that this was actually an automobile. [LB203]

SENATOR SCHEER: Yes, sir. [LB203]

SENATOR HAAR: Okay. Do you know, I mean, there are some things in automobiles which are hazardous. [LB203]

SENATOR SCHEER: Correct. [LB203]

SENATOR HAAR: And how those have been removed. [LB203]

SENATOR SCHEER: They would be able to explain that. [LB203]

SENATOR HAAR: I'll ask them. [LB203]

SENATOR SCHEER: I can tell you briefly that all the gas tanks and those things are pulled out; all the surface materials, the material over the seats and the hood linings, all those things are removed and the fluids are drained out of the vehicle so that it really is essentially about as close as you can get to a metal and then it's smashed and then brought to them and it's melted down. [LB203]

SENATOR HAAR: It's still warm. (Laughter) [LB203]

SENATOR SCHEER: I might add, you could seriously injure yourself if you did eat it. So any product has to be used wisely and appropriately. [LB203]

SENATOR HAAR: Okay. [LB203]

SENATOR CARLSON: Okay, any other questions for Senator Scheer? All right, thank you. And you'll be here to close? [LB203]



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SENATOR SCHEER: Yes, I will. Thank you, Senator. [LB203]

SENATOR CARLSON: Okay, thank you. All right, we're ready for proponents of LB203. Welcome. [LB203]

JOHN KINTER: (Exhibit 3) Good afternoon. Chairman Carlson and members of the Natural Resources Committee, I am John Kinter, J-o-h-n K-i-n-t-e-r, environmental manager for Nucor Steel Nebraska, located in Norfolk. And on behalf of our 950 teammates working in Nebraska, we would like to thank Senator Scheer for introducing this bill and I appreciate the opportunity to testify in support of LB203. Nucor Corporation is the largest steel producer in the United States with more than \$20 billion in annual sales. The company has four facilities in Nebraska, including a steel mill, coal finish mill, detailing center and a facility that makes steel joists and steel deck. All four facilities are located in Norfolk. Last year, Nucor Nebraska's divisions generated approximately \$1.1 billion in sales. And it looks like everybody has received copies that we handed out. There is two one-pagers; one is the economic impact from Nucor in Nebraska, and the other one is a one-pager on slag itself. You may find that helpful as I'm delivering the testimony. In addition to being the largest steel producer, Nucor is the largest recycler in North America. In 2011, the company recycled approximately 20 million tons of scrap with our Nebraska operations accounting for 968,000 tons. Our steel mills recycle scrap metal from cars, appliances, and other discarded metal products into hundreds of types of new steel products of various shapes and grades. Nucor Steel Nebraska's products are all made with 98 percent recycled content. However, scrap steel is not the only material we recycle. Among the hundreds of recycled products made and marketed by our Nebraska teammates is slag which is the product that is the focus of this legislation. Nucor steel mills produce steel by using a electric arc furnace technology, which heats and melts scrap metal. Lime is injected to act as a fluxing agent. The lime combines with silicates, oxides, and ferrites to form steel furnace slag, commonly called steel slag. Slag is poured from the furnace in a molten state. After cooling from its molten state, steel slag is processed by Tube City IMS, our on-site reclamation facility, to remove all free metallics and sized into products. Slag formation during the process is an important step in the process of producing and maintaining liquid steel chemistry and steel quality. We produce approximately 130,000 tons of slag per year in Nebraska and 47 jobs are tied directly to slag. Steelmaking slag has been used commercially since at least the mid-nineteenth century. It is currently used in all industrialized countries wherever steel is produced. Beginning in the twentieth century, many new uses for steelmaking slag were developed in a variety of industries, and today slag has a wide variety of applications. Slag is primarily used as an aggregate in construction projects, most commonly as a sub-base for roads. The Federal Highway Administration and state departments of transportation encourages its use in infrastructure projects because slag has been found to provide excellent adhesion in asphaltic concrete, and the shape improves skid resistance in road materials. And just to add a little bit more there, in icy-type road conditions, slag is an

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anti-skid product used similar to sand and gravel. Slag is highly stable when wet, prevents the formation of ice, does not have problematic surface irregularities and is easily compacted. These same properties also make steelmaking slag a superior material for use as a construction aggregate where slag is used as a replacement for Portland cement in concrete and has been used in the construction of concrete buildings. Additional uses include replacement for agricultural lime, septic tank drain field material, and architectural stone. Slag from our mill is used in many feedlots and hog confinement operations across the state as well. As you can see, slag is an extremely versatile product. It also is an environmentally responsible choice. Because slag is a renewable mineral resource, its uses reduce the consumption of natural resources by the construction industry. Using slag for its commercial purposes, as we do in Nebraska, avoids disposal. Reducing the amount of Portland cement used in concrete decreases energy use, greenhouse gas emissions, and use of virgin material. Currently in Nebraska, slag is considered a beneficial use by-product. This legislation would change the classification of slag to a product. In light of the numerous uses for slag and its long history as a product, we believe this change in classification is appropriate. It would bring certainty to our business, while also removing unnecessary and burdensome administrative requirements that may constrain its marketability. We have not requested this amendment to the solid waste definition because we have any problem with NDEQ. Their policies for slag use are appropriate, but are considered guidance. Nucor experience in other states is that guidance can change, sometimes without notice. Our request is part of an industry effort to establish the status of slag as a product rather than a solid waste. Many state regulatory systems that have substantial experience in the production and use of slag have already recognized the value of steel slag as a product. One such state is Alabama, which is one of the largest steel producing states in the U.S. and the home of three other Nucor steel mills. In 2010, the Alabama Department of Environmental Management indicated that slag could meet its regulatory code definition of "product." Alabama's definition of "product" uses similar language to the language offered in this legislation. This step in Alabama was important for our industry, but in order to provide certainty in our business model in Nebraska, we are asking that LB203...in LB203 that a definition of "product" be placed into statute. The many valuable uses detailed above make clear that steelmaking slag offers significant benefits in terms of performance and the conservation of environmental resources. In many of its uses, steelmaking slag should be considered for more widespread use in construction, industrial, agricultural, and residential applications. This legislation will bring needed certainty to our business and will allow us to increase our competitiveness and marketability of one of Nucor's several hundred "made in Nebraska" products. It is this desire to compete mentally that has allowed us to compete against heavily subsidized foreign steel industries and has resulted in our never having laid off a single Nebraska teammate since beginning operations in 1968. Thank you for giving me the opportunity to testify in support of this bill. I would be happy to answer any questions. I have also brought Jeff Haase, the site supervisor at Tube City IMS, and Dan Drake, an environmental engineer with Nucor. Thank you for your time. [LB203]

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SENATOR CARLSON: Okay, thank you for your testimony. [LB203]

JOHN KINTER: Um-hum. [LB203]

SENATOR CARLSON: Questions of Mr. Kinter? Yes, Senator Dubas. [LB203]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Mr. Kinter, for coming. When did slag move from being a solid waste to an actual viable product? Has it always been a product, but you just...? [LB203]

JOHN KINTER: Specifically in Nebraska, Nebraska has never identified slag as a waste. [LB203]

SENATOR DUBAS: Okay. [LB203]

JOHN KINTER: It's clear in the DEQ guidance that slag is not a waste and it is allowed to be used in several applications; many I mentioned in my testimony. And your question, as far as specifically to every state, you know, we'd have to do a lot more case research on that to answer that question. [LB203]

SENATOR DUBAS: No, that's fine. [LB203]

JOHN KINTER: But in Nebraska that's... [LB203]

SENATOR DUBAS: It's always been defined as a product in Nebraska. [LB203]

JOHN KINTER: No, it hasn't necessarily been defined as a product, it just...DEQ has made clear that it is not a waste. [LB203]

SENATOR DUBAS: Okay, all right. And does that slag have to go through any additional refining? Do you have to do things based on what it's going to be used for? Do you have to do different processes to it? [LB203]

JOHN KINTER: Yes, ma'am. Our Tube City IMS contractor takes the slag from our melt shop facility and further processes it, mainly by screening. So we have different sizes of slag that we can market and it's based on inch diameters. We'll have 0 to 1 inch, 1 to 2 inch diameter, 2 to 3 inch, those types of products. So there is more processing involved to produce the final slag. [LB203]

SENATOR DUBAS: And if I remember right, you said that it can be used to replace lime as fertilizer. [LB203]

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JOHN KINTER: Yes. [LB203]

SENATOR DUBAS: So it's an equivalent? More needs to be used, less needs to be used? [LB203]

JOHN KINTER: From an agronomy standpoint, and again I'm not an agronomist, but lime is going to be more concentrated than slag. There's not as much lime in slag as there is in 100 percent lime product. [LB203]

SENATOR DUBAS: Okay, thank you. [LB203]

JOHN KINTER: You're welcome. [LB203]

SENATOR CARLSON: Okay, thank you. Senator Brasch. [LB203]

SENATOR BRASCH: Thank you, Chairman. And thank you, Mr. Kinter, for your testimony today. As you know, I had the opportunity to tour the facility last summer and I was very amazed as we walked quite a distance from building to building that slag looked like, felt like, acted like gravel, and in fact, I did not even know it was slag until it was pointed out to me. Amazed, I visited with my farmer husband, and yes, you're correct in saying that the ag community has used it for quite a while. My question would be...because I also spent a little time with the roads maintenance crew this summer, do you think that would be something viable for our Department of Roads to look at in road construction? Whether it's all the way from county gravel roads to mixing into our highways, would that be a potential use as well? [LB203]

JOHN KINTER: Absolutely. And in fact, there are some state DOTs that have steel slag in their spec for asphalt or concrete-type applications. Again, because it is a product, we're always looking for new markets for it. [LB203]

SENATOR BRASCH: Okay. [LB203]

JOHN KINTER: We generate 130,000 tons of slag a year; we might have some. [LB203]

SENATOR BRASCH: That's very good. [LB203]

JOHN KINTER: We'd love to work with DOT and Department of Roads here in Nebraska and come up with some solutions. [LB203]

SENATOR BRASCH: Excellent. No other questions. [LB203]

SENATOR CARLSON: Thank you. Senator Schilz. [LB203]

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SENATOR SCHILZ: Thank you, Senator Carlson. John, thanks for coming in today. [LB203]

JOHN KINTER: Sure. [LB203]

SENATOR SCHILZ: You say you produce 130,000 tons per year. What's the value of slag per ton? [LB203]

JOHN KINTER: On a per ton basis, right now, we're...Tube City is our marketer and we're selling it for about \$7 a ton. When we first started selling slag years ago it was \$2 a ton and we're able to continue to increase the price. I think last year revenues from slag were around \$520,000. [LB203]

SENATOR SCHILZ: That would be a lot of jobs if you couldn't sell that, wouldn't it? [LB203]

JOHN KINTER: Be a lot of jobs we wouldn't have anymore, yes. [LB203]

SENATOR SCHILZ: Thank you. [LB203]

JOHN KINTER: You're welcome. [LB203]

SENATOR CARLSON: Okay, thank you. Senator Johnson. [LB203]

SENATOR JOHNSON: Thank you, Senator Carlson. Recently in our community we had a steel casting company come in, start building a plant and doing their work there, so I'm trying to bring myself up to...in knowledge on the steel industry. I am familiar a little bit with fly ash, used that in some previous applications where we were needing to strengthen the ground underneath a driveway at an elevator. And how does this product compare in to fly ash and its composition and just by being there, packed in, because I know fly ash is activated somewhat by moisture? [LB203]

JOHN KINTER: Right. [LB203]

SENATOR JOHNSON: And that's an ash to me. I mean, ash is off a plant so... [LB203]

JOHN KINTER: The particular matter in a coal ash is going to be much finer than a slag, as you can see from the sample. It's a lot larger in diameter and size. But the compaction properties of slag are very good. In fact, a lot of the applications we use slag for in Nebraska is for road bases. [LB203]

SENATOR JOHNSON: Yeah. [LB203]

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JOHN KINTER: To replace gravel or some other type of aggregate. [LB203]

SENATOR JOHNSON: So it's a very comparable product, it's just another source. I mean, one is off of a plant and one is off of steel. [LB203]

JOHN KINTER: I would say yes, both products are used in road-type applications for replacement for gravel and instead of doing asphalt or concrete base... [LB203]

SENATOR JOHNSON: Yeah, and a base. [LB203]

JOHN KINTER: ...you use something that compacts really well and has good traction properties. [LB203]

SENATOR JOHNSON: Okay, thank you. [LB203]

JOHN KINTER: You're welcome. [LB203]

SENATOR CARLSON: Okay. Senator Kolowski. [LB203]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. John, thank you for being here today. And you mentioned the revenues you have from this product on a yearly basis. Can you pinpoint how many jobs...how many people are involved just with working with this material overall? [LB203]

JOHN KINTER: We have our contract services, Tube City IMS, and right now they currently employ 47 employees. [LB203]

SENATOR KOLOWSKI: Forty-seven. [LB203]

JOHN KINTER: Um-hum, yes. [LB203]

SENATOR KOLOWSKI: Thank you, that's excellent. And I also made a call to our Papio NRD office. I wanted to ask if they have used this, although they haven't because the distance, more than anything else, as far as bringing it to Omaha. But they were aware of it as a product and spoke very highly of it from people they know across the state. So I just wanted to add that to the conversation. And I think this is my son's old F-150. (Laughter) I'm not sure, but we'll check. [LB203]

SENATOR CARLSON: Okay, thank you. Senator Haar. [LB203]

SENATOR HAAR: Thank you. Well, I have some questions because I don't really know what slag is and it's my first encounter with slag. And I guess the reason I have

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questions to begin with, if it's not a problem now, why...and you said to Senator Dubas that NDEQ has not classified this as a waste, could they classify it as a waste? Or why are you doing this? [LB203]

JOHN KINTER: Okay. One of the reasons Nucor has been so successful is because we're innovative and we're proactive and we want to continue to build on our business plan and sell steel and sell slag. To answer your question, your first question specifically, no, and I mentioned it in my testimony, we don't have any current issues with slag in Nebraska in marketing it with how it's approached as a beneficial use product. We do have...we've seen it in other states where that has become an issue and we want to be proactive and keep that from happening because we truly believe that...and as we talked about in our testimony, as Senator Scheer had mentioned, and as you see in the sample and as we've heard, it is a product. We want to get away from even talking about it being a waste because it's a product, and it has many applications as we've talked about today. [LB203]

SENATOR HAAR: So could...I mean in the current...the way we have things organized, NDEQ could, without any designation, could call it a waste? [LB203]

JOHN KINTER: It could be, yes. [LB203]

SENATOR HAAR: Okay. And you told me a little earlier, but tell me again, where has this been a problem of somebody calling this a waste and who, you know, who wants to do this? [LB203]

JOHN KINTER: I think, Senator, we specifically mentioned New York. We haven't had a chance to do a whole lot of additional research on every specific state that has certain issues with the slag. Again, from a proactive standpoint and for what we feel is to set our business plan up and to get the certainty that we need, I think it's important to have this legislated in as a product and not just kind of hanging out there that, well, is it a waste, is it a product? And right now I think we're in limbo and we really want some certainty with that. And we... [LB203]

SENATOR HAAR: My only concern would be if...when things, you know, inadvertently get introduced into the environment, I'm talking about health and so on, that inadvertently get introduced into the environment. And so if this is basically a product or a by-product, really, of what you do, so what...what protects us from...for example, if there is a car in there, there is a lot of things in cars that shouldn't go into the environment, mercury switches, all kinds of things. How do you separate out all of those? [LB203]

JOHN KINTER: And that goes back to your question to Senator Scheer. We work with hundreds and thousands of scrap processors throughout the country and the scrap

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processors have their own set of requirements that they must adhere to, to collect the materials that aren't supposed to be getting into the scrap. And, quite frankly, right now with scrap prices they are down a little bit, but you wouldn't want that stuff to get into the steel, because a lot of it is the precious metals and the things that the scrap processors make a lot of money on, in some cases, even more than selling the scrap steel. The fluff and the stuff that is generated from the shredding operations, we have some of those in Nebraska. That stuff does get landfilled and taken care of properly that way. And, you know, there is just a lot of mechanisms in place to keep the mercury switches you mentioned. EPA has a rule out right now that helps protect that, to help keep the mercury switches out. And I could go on and on, but there is just a lot of things out there that protects the scrap market and the material that comes into our facility before we melt it. [LB203]

SENATOR HAAR: And then you actually test the slag to see what's in it? [LB203]

JOHN KINTER: We do, we do. We do it...specifically our division, but nationwide our Tube City IMS corporation contracts and we have a lot of testing that we do both with Tube City, as well as ourselves. [LB203]

SENATOR HAAR: Is that report available, then, to...publicly? [LB203]

JOHN KINTER: We would be happy to share any of that data. We don't share it right now because it's not a requirement. But we would be happy to share any test data you'd like to see. There is some risk-basis estimates we've done as well. We'd be happy to share that information. [LB203]

SENATOR HAAR: Would you object to having that kind of reporting done to NDEQ as part of the deal? [LB203]

JOHN KINTER: We would, because it's a product. And if we're going to do that for slag, we should be doing it for milk and concrete and any other product that's manufactured. [LB203]

SENATOR HAAR: But then how do we know what's in it? [LB203]

JOHN KINTER: How do we know what's in...and this is nothing against sulfuric acid or limestone or any other material or product, it's a...you have an MSDS which is a materials safety data sheet that says what's in the product. And that tells you what's in it. We'd be happy to share any test data, but again, it isn't unlike our steel. The steel is the same way. We have...we know what's in our steel. Our customers demand it. We have spec sheets for every...we have 500 different grades that we do at our facility. We have spec sheets that say this is what's in the steel. [LB203]



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SENATOR HAAR: And you can see what my concern is. If things get entered into the environment that...inadvertently that could be health hazards. Do any of your customers ask for that kind of analysis? [LB203]

JOHN KINTER: Not that I'm aware of. We would be happy to share it if they would like to see it, but not that I'm aware of. [LB203]

SENATOR HAAR: Yeah, I'd like to see some of that data, if I could. [LB203]

JOHN KINTER: I'd be happy to share it with you. [LB203]

SENATOR HAAR: So right now there is no reporting that goes to the NDEQ or whatever? [LB203]

JOHN KINTER: Not directly related to the contents of slag,... [LB203]

SENATOR HAAR: Okay. [LB203]

JOHN KINTER: ...if that's what you're referring to. We do report our steel production and some of those other things to DEQ, but not specific to the analytics. [LB203]

SENATOR HAAR: Now when I picked that up, I didn't know what to expect. Is that...are those hard lumps or... [LB203]

JOHN KINTER: They are very hard. [LB203]

SENATOR HAAR: Okay. Now I got dust so I dropped it back in. I didn't want to test...see how hard it was, but I mean, the aggregate size is what some of your customers ask for then, and...so those are hard lumps with a little dust on them? [LB203]

JOHN KINTER: Yes, they are. [LB203]

SENATOR HAAR: Okay. Well, I'll take some out and play with them more. (Laughter) [LB203]

JOHN KINTER: There's iron in there, so it is...I don't know exactly on the hardness scale where it stands, but it's... [LB203]

SENATOR HAAR: No, but it is...yeah... [LB203]

JOHN KINTER: Yeah, it's hard. [LB203]

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SENATOR HAAR: But those don't crumble away when I pinch them. [LB203]

JOHN KINTER: Yes, sir. [LB203]

SENATOR HAAR: Okay. [LB203]

SENATOR CARLSON: Okay. Senator Schilz. [LB203]

SENATOR SCHILZ: Thank you, Senator Carlson. And you mentioned before the materials safety data sheet. As you come about in your steelmaking process, as you're melting, as you're recycling stuff, I would guess the data sheet is showing you, basically, basic compositions of what would be in there, what precautions you have to take to handle it, or whatever. And all that's available just anywhere. [LB203]

JOHN KINTER: Yes. [LB203]

SENATOR SCHILZ: I mean anybody can get that sheet if they want to. [LB203]

JOHN KINTER: Yes, the MSDS has to be publicly available, yes, sir. [LB203]

SENATOR SCHILZ: Right. And so as we look at it, when slag becomes...or whatever, however it happens, there's...is there different compositions of it or is it all just kind of the same? [LB203]

JOHN KINTER: It's really a homogenous-type of product. The only other thing that really changes is the sizing. As I mentioned early, you get the smaller types of slag, that's our...what we call 0 to 1 inch. We go 2 to 3 inch, 3 to 4 inch... [LB203]

SENATOR SCHILZ: Right. [LB203]

JOHN KINTER: ...so that the...so the composition stays the same, but the size can increase. [LB203]

SENATOR SCHILZ: So one bit of slag is pretty much the same as the next bit of slag? [LB203]

JOHN KINTER: Right. [LB203]

SENATOR SCHILZ: So there's not a whole lot of difference chemically... [LB203]

JOHN KINTER: Right. [LB203]

SENATOR SCHILZ: ...as to what that is? [LB203]

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JOHN KINTER: Yes, sir. [LB203]

SENATOR SCHILZ: Okay, thank you. Oh, probably wouldn't want to chew on it either, would you? (Laughter) [LB203]

JOHN KINTER: I suppose if you wanted to, it would be an everlasting Gobstopper, I guess, if you want. It would never go away. [LB203]

SENATOR SCHILZ: The most hazardous thing would be to your teeth, right? [LB203]

JOHN KINTER: Probably. [LB203]

SENATOR SCHILZ: Yeah. [LB203]

SENATOR CARLSON: Okay. Senator Brasch. [LB203]

SENATOR BRASCH: Thank you, Chairman. And thank you again. You are not in my district but near my district, and I do know that your company sent out an e-mail to all the senators, I believe, last year. You had a couple public events. And I came after the fact because I could not make your invitation. But you do employ many safety features throughout your plant. That was one of the things I did see, and reports and detailed records. And, I guess, just from seeing that, you know, I feel very assured, as the area does, that there isn't any potential hazard or it wouldn't be so widely used. Is that what you're saying here today? [LB203]

JOHN KINTER: Yes. [LB203]

SENATOR BRASCH: That...and so the fear is that it would become a waste product instead of usable product? Is that your concern? [LB203]

JOHN KINTER: I think that there's a number of fears, and the biggest one for me, because I'm in the environmental field, is...and I also, quite honestly, like to make money, if we have to landfill 130,000 tons of slag a year, what does that do to our landfills? [LB203]

SENATOR BRASCH: Um-hum. [LB203]

JOHN KINTER: And also financially, as we mentioned, we produce and we market the product and we make money off of it. So if it becomes a waste, that becomes much harder to do those. One, we fill up a landfill and, two, we're not making money on the product. [LB203]

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SENATOR BRASCH: Well, I did appreciate the tour. And I think any of the people on this committee would also benefit from another invitation at some point. [LB203]

JOHN KINTER: It is open to anyone who would like to come. [LB203]

SENATOR BRASCH: Thank you. [LB203]

JOHN KINTER: Um-hum. [LB203]

SENATOR CARLSON: Okay. Any other further questions? I have a couple. On the amendment, in the last three lines it says: use or further processing into another desired commodity and are managed as an item of value in a controlled manner and not as a discarded material. What does "in a controlled manner" mean? [LB203]

JOHN KINTER: And again, I wouldn't want to answer for the senator, but how I would answer that is, as with any product, and anything that you sell out in the market, there is a...there has to be a balance there. I mean, you can't...you have to be able to show that you're...you have, one, you have a market for it and there is a supply and demand to that product. And I think that's what we're referring to there in that definition of a product to make sure that, and slag does, it passes that test. And when you read through this definition, that slag meets those factors, those things that we have here in the bill. [LB203]

SENATOR CARLSON: Well, I would...and this isn't saying anything in the direction of Senator Scheer. Whether it's his amendment or mine on a bill, I'd be very interested in what the people that are the experts think of particular wording... [LB203]

JOHN KINTER: Um-hum. [LB203]

SENATOR CARLSON: ...and because we don't want anything that's not clear. [LB203]

JOHN KINTER: Okay. [LB203]

SENATOR CARLSON: So I'd say, look carefully at this. And if there is a suggestion to Senator Scheer, give it to him; and, of course, in the final analysis we want everything to be accurate. And so I would just ask that. The term "slag", that's probably about as common as coffee, isn't it? So all across the country we say coffee, everybody knows what that means. Is that kind of the way it is with slag? [LB203]

JOHN KINTER: Within the steel industry, slag is... [LB203]

SENATOR CARLSON: I don't like slag. It sounds slimy. [LB203]

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JOHN KINTER: How does "Nustone" sound? [LB203]

SENATOR CARLSON: "Nustone"? [LB203]

JOHN KINTER Yeah. [LB203]

SENATOR CARLSON: Great. (Laughter) But really, that's... [LB203]

JOHN KINTER: There's things... [LB203]

SENATOR CARLSON: If you don't know anything about it, you hear that term, it almost brings the thought, what's wrong here? And yet it is a product. So I don't know that you can do anything about that, but a new name would be real helpful. Maybe in Nebraska. [LB203]

JOHN KINTER: Senator, we are looking at that, we are. [LB203]

SENATOR CARLSON: Okay. [LB203]

SENATOR JOHNSON: You can brand it. [LB203]

JOHN KINTER: Yeah. [LB203]

SENATOR CARLSON: Is there any way--this kind of follows up on what Senator Schilz asked and I think the answer is probably the same--is there any way in the whole process that what makes up...what's the new name? [LB203]

JOHN KINTER: "Nustone." [LB203]

SENATOR CARLSON: "Nustone." [LB203]

JOHN KINTER: N-u-s-t-o-n-e. Yeah. [LB203]

SENATOR CARLSON: Okay. What makes up "Nustone" could change...couldn't a makeup change...I think you pretty well...in the process, is there any way the makeup could change? [LB203]

JOHN KINTER: What goes into slag are the...a lot of the technical terms that we mentioned here. And for every grade that we make, we produce slag. And we test our slag a lot...I'm sorry, "Nustone". We test our "Nustone" throughout the year and annually, and we do that nationwide with all of our Nucors. And again, there's more than just Nucor involved in this. There's obviously...our competitors that produce "Nustone" or slag as well, not just us. So the basic chemistry, the basic makeup of slag will always

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include the lime and the oxides and the silicates that we talked about earlier. And will you have a little bit of variation? You will, based on the different grades we're making. But it's not as if you're going to...we're not going to go from making a slag product to a new definition of some other material that we're making. The slag is always going to be there. It's integral to our steelmaking process; we have to have it. We produce it intentionally because there's benefits to not only having slag as a product, but also the quality of our steel. [LB203]

SENATOR CARLSON: Well, to go back to use my coffee example, we have decaf, we have French vanilla, we have hazelnut, we have high something or other, they're all coffee. But you don't have that in slag, in "Nustone." [LB203]

JOHN KINTER: Only in the physical, when I talk about the different sizes we can send out. [LB203]

SENATOR CARLSON: Okay, the sizes, but the makeup. And I think that could be kind of important to the questions that Senator Haar has brought up. Okay, thank you. [LB203]

JOHN KINTER: Okay, you're welcome. [LB203]

SENATOR CARLSON: Oh, no. (Laughter) Senator Haar. [LB203]

SENATOR HAAR: We have to ask questions now. So you said in your testimony, it brings certainty to our business while also removing the unnecessary and burdensome administrative requirements that may constrain its marketability. Tell me about, what are those burdensome administrative requirements right now? [LB203]

JOHN KINTER: Again, as speaking from Nebraska specific, there are none. But based on some of the other experiences we've had in some of the other states, it's defining the markets that slag can be used in. And once you define your markets, you have a much harder opportunity to do things. As Senator Brasch pointed out, let's talk to the DOT folks. Well, now a certain state, and then let's...we'll just use Nebraska as an example, could come back and say, you can't use slag in roads anymore. That's a pretty big burden for us to be able to market and sell slag. And that's what we want to stay away from. [LB203]

SENATOR HAAR: Okay. And again, this comes back to...the word "product" is sort of to me like the word "soup." I mean, you know, you say, okay, here's soup; I want to know what's in the soup. And that's why I get back to this...since it is a by-product of what you're doing, I want to know what's in that, that it's not something that's going to affect our health or our well-being. I mean, I appreciate and I tried it out; I can't break it. It is hard. (Laughter) [LB203]

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JOHN KINTER: You didn't taste it though, did you? [LB203]

SENATOR HAAR: I didn't taste it. We'll leave that up to my colleague to do. [LB203]

JOHN KINTER: Okay. [LB203]

SENATOR HAAR: But I think that's where my question will go to NDEQ. How in the future will we know that this is a safe product? Because, I mean, as we know nowadays, there are a lot of...even products on the market that aren't necessarily safe products. And that's what I want to make sure. [LB203]

JOHN KINTER: Okay. [LB203]

SENATOR CARLSON: Okay. Any further questions? You can see in this...I don't know how many times you've testified at a hearing in Nebraska. Have you testified several times? [LB203]

JOHN KINTER: A few times. [LB203]

SENATOR CARLSON: Okay. Well, the purpose of this committee is to ask some questions that go into depth, and Senator Haar always asks those things that have to do with the environment. He's one that's very keen with that and serves a very important purpose. So we appreciate that and the questions of each member of the committee. And we thank you for your testimony. Thank you. [LB203]

JOHN KINTER: Thank you all, appreciate it. [LB203]

SENATOR CARLSON: (Exhibit 4) Any other testifiers as proponents? Anyone testifying in opposition? We do have a letter that will be entered into the record from Ken Winston from the Nebraska Sierra Club in opposition to LB203. Anyone else in opposition? Neutral testimony? Okay. Mr. Linder, welcome to the hearing. [LB203]

MIKE LINDER: Thank you. Good afternoon, Senator Carlson, members of the Natural Resources Committee. My name is Mike Linder, that's M-i-k-e L-i-n-d-e-r. I'm director of Nebraska Department of Environmental Quality. On LB203, I thought I'd mostly be here to answer any questions you may have. A number of questions came up. Senator Haar, we do have...and get from time to time the analysis of the slag. So we do have that information in our...you know, readily at our...for our use. We also, just for your information, this is a guidance document we published in 2007, although we've treated slag the same way for many years, outlining the use of this type of material. It's the same guidance document that deals with coal combustion residue, the earlier question. It's kind of a similar, in sort of a similar category. So long as it's used beneficially we

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wouldn't treat it as a waste. Now if it was stockpiled or discarded, we would treat it as a solid waste. But so long as there is a beneficial use involved, we treat it essentially as a product, although there isn't a definition of "product" in our statutes currently. I did look at the...we did have some concern with the broadness of the bill as introduced. And just taking a quick look at the proposed change, it does narrow down the applicability of that definition. And we'll continue to look at it and be happy to work with the committee in any way we can. Other than that, just open for any questions. [LB203]

SENATOR CARLSON: Okay. Thank you. Any questions? Yes, Senator Haar. [LB203]

SENATOR HAAR: Thank you for being here. Go back for a minute, now you said you had a report of what is in the slag right now. Is that just because of this hearing or do you get that on a regular basis? [LB203]

MIKE LINDER: We asked for it specifically because the bill came up. [LB203]

SENATOR HAAR: For the hearing. [LB203]

MIKE LINDER: We do get it...I don't think we get it regularly, but we get it time to time. I know we had a fairly dated copy, I think two or three or more years old in our files when the bill came up, because I asked the question. So I asked our staff and they did have one that was fairly dated. But we got, I think, the last two years' worth of data just before the hearing. And it's consistent with what we had in our files. [LB203]

SENATOR HAAR: Good. [LB203]

MIKE LINDER: And it's kind of a knowledge of process; so long as the process doesn't change,... [LB203]

SENATOR HAAR: Sure, sure. [LB203]

MIKE LINDER: ...it's going to be fairly constant. [LB203]

SENATOR HAAR: Now the two reports that you referred to and other reports you had; say that again for me. [LB203]

MIKE LINDER: This is a guidance document. [LB203]

SENATOR HAAR: Okay, guidance document. [LB203]

MIKE LINDER: Yeah. And we publish it on our Web site. It's available for folks. And it kind of gives a little, well, guidance on managing these types of materials, by-products. And like I said, so long as they're beneficially used, because of the composition of it,



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we...you know, that beneficial use is of value. [LB203]

SENATOR HAAR: So a guidance document, why do you even feel it's necessary to have a guidance document on slag? [LB203]

MIKE LINDER: Well, you know, there is...I suppose there is a question of what is beneficial use and how could things be used without crossing the boundary to discarding it. An example would be, several years ago we had an issue with facilities baling tires, baling them up and using them for kind of questionable practices and calling it a beneficial use, where really it wasn't necessarily beneficial. So we try to go through some of the steps that would...that we would see as being beneficial. Also making sure that the product doesn't fail for hazardous waste components. And based on the information we have, this particular product wouldn't. It is the same process we would work with, with power plant operators on coal ash residue. [LB203]

SENATOR HAAR: So if this were defined now as product, that would go off your Web site, because it's a product. [LB203]

MIKE LINDER: It would...yeah, now, you know, like any product, if you improperly handle something and say discard it improperly, it wouldn't, I...you know, be a solid waste if it was being stockpiled and not dealt with or something like that. But otherwise, we wouldn't have a regulatory handle, no. [LB203]

SENATOR HAAR: So going...in other words, again, if this bill is passed that will...the use of slag will go off your Web site. [LB203]

MIKE LINDER: I...yeah, I...I don't know if it would totally or not. I haven't...you know, I suppose that could be true. I'm not real sure what the impact of adding this definition to our statutes is, quite honestly. I think it maintains a status quo of what's currently happening with this product. Whether we would continue to provide guidance on beneficial use or not, I...we haven't had that discussion, so it makes it hard to answer that question. [LB203]

SENATOR HAAR: Is that a...making that kind of decision because...and again, not knowing much about the slag and so on, that's why I'm asking my questions. Some of the other things you provide guidance documents on are like coal ash that's...and so on. The slag feels...kind of feels like a waste. Okay, it's a by-product, and so it needs to have this kind of oversight. Is there anything in state law that talks about, you know, what...what requires guidance documents or not, or is that just...that's just something your department... [LB203]

MIKE LINDER: No, it...I mean, we usually provide guidance for issues that we get a lot of questions on, or it's a particular facet of a business or a industry that questions come

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up or we want to provide information that's not regulatory. Anything we want to make regulatory, we go through the regulatory process and then we can impose it on people. But this is the type of document we use just to provide helpful information, I guess. [LB203]

SENATOR HAAR: Sure. And I appreciate that, I mean that's part of...really when we talk about environmental safety I'm more concerned about health. [LB203]

MIKE LINDER: Sure. I mean, like we have guidance documents on recycling. Well, it's, you know, it's kind of the same thing. Here is some information to use for recycle...proper recycling of different products. And it's much the same, much the same here. [LB203]

SENATOR HAAR: Um-hum. Okay. Well I would, you know, like a little more input at would this continue to have a guidance document, or does... [LB203]

MIKE LINDER: Okay. [LB203]

SENATOR HAAR: ...as a product, does it just... [LB203]

MIKE LINDER: Sure. [LB203]

SENATOR HAAR: ...does that go away? Okay. [LB203]

SENATOR CARLSON: Okay, thank you. Any further questions? Yes, Senator Johnson. [LB203]

SENATOR JOHNSON: Thank you. I'm not challenging the integrity of the company that has made their presentations, but do you have a way of testing what's in there in order to know that that, whether it's this product or "Nustone" or whatever, that you can prove and say, yes, that's what's in here? [LB203]

MIKE LINDER: We have the ability to analyze various types of material. If the need arose, we could do that here. [LB203]

SENATOR JOHNSON: And that need would arise out of a complaint or just a concern or a hunch or any of the above? [LB203]

MIKE LINDER: Yeah, you know, although in this particular situation, unless the process changed, there would really be no need to do an initial analysis. But to answer your question, we do have that capability. [LB203]

SENATOR JOHNSON: Okay. Thank you. [LB203]

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SENATOR CARLSON: Okay. Senator Brasch. [LB203]

SENATOR BRASCH: Thank you, Chairman. Now I'm very curious. Is steel hazardous to our health? [LB203]

MIKE LINDER: Steel? [LB203]

SENATOR BRASCH: Steel. [LB203]

MIKE LINDER: I suppose if it falls on you it could be. (Laughter) [LB203]

SENATOR BRASCH: If it falls on you, but I should be concerned? I'm in my vehicle 45,000 miles every year. So I spend a lot of time in that same car that's crushed in that jar. [LB203]

MIKE LINDER: Right. Not to my knowledge. [LB203]

SENATOR BRASCH: Okay, all right. This is where I...so, because I've avoided the flu shot so far, I feel all right. (Laughter) But no, seriously, have you had any slag red flags from here or any other state? [LB203]

MIKE LINDER: No, ma'am. [LB203]

SENATOR BRASCH: No. Okay. Very good, thank you. [LB203]

SENATOR CARLSON: All right. Any other questions? Senator Haar. [LB203]

SENATOR HAAR: Yeah, and again, I mean, the purpose of being here on this committee is to get data and ask questions. What is the process, let's say, with coal ash? If a citizen comes to you with a request if something is hazardous or not, how do you treat that situation? And is that when you act or are there certain things that you regularly...? [LB203]

MIKE LINDER: Well, there are many by-products or outcomes of manufacturing or energy burning, like coal burning, that we require analysis on. If there is something that we don't, as a regulatory matter, get analysis on and we're approached by a citizen or whatever, you know, first thing we would ask the company to provide that data, because more than likely, like Nucor, they analyze all of the material that comes out of their facilities. So that would be the first step. But like I...in response to Senator Johnson, we would have the capability to do that analysis ourselves. I mean, it's more likely like in a water incident...a water discharge... [LB203]

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SENATOR HAAR: Sure. [LB203]

MIKE LINDER: ...where there is something being discharged and we're asked for the analysis of that. I mean, that's the more typical situation, as opposed to...we don't get as many of that type of request on waste. But we do have the capability to do sampling and analysis. [LB203]

SENATOR HAAR: Do you analyze, for example, coal slag on a regular basis? Not coal, I'm sorry, coal ash on a regular basis? [LB203]

MIKE LINDER: No, I believe it would be like the slag situation. We know the properties of it. And so long as it's used beneficially, it can be used at...we have regulations on disposal of coal ash. And if you go to the power plants, you'll see they have monofills for the coal ash. But if it's used beneficially, it can be used outside the waste management arena, and typically is a...and for coal ash, typically is an aggregate in roads projects. And I think our coal ash in Nebraska is somewhere between 50 and 60 percent beneficially used, not disposed of in a monofill, but beneficially used in an appropriate manner. But there's not a regular testing, to my knowledge, and I'll double check on that. But I think it's more a knowledge of process. So long as the process doesn't change, it's going to be the same. So long as the same kind of coal and the same boilers are used, it's going to be the same output. [LB203]

SENATOR HAAR: So this is a new learning for me that for certain by-products, if there is a beneficial use, but there could also be disposal, and when it comes to disposal, then you get involved. [LB203]

MIKE LINDER: Correct. [LB203]

SENATOR HAAR: Okay. Now the results of, for example, analyzing coal ash and so on, does that go on your Web site, is that available without making a special request? [LB203]

MIKE LINDER: If it's part of our regulatory regime, it would...it could be. I don't think all of it would be on our Web site. And the reason I say that is because we now image all of our incoming mail and outgoing mail, so it's the last 18 months of all of our files that really are on the Web site, available on a map serve if you're interested. But you could probably go to the Gerald Gentleman facility, for example, and click on that and get any analysis that we would have...would be available, but not all of it historically. [LB203]

SENATOR HAAR: Okay. Well, I've been there and I toured that, but I didn't know to have the question to ask about... [LB203]

MIKE LINDER: You have to dig down pretty deep, I think, to find the chemical analysis.

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[LB203]

SENATOR HAAR: Yeah. [LB203]

MIKE LINDER: But it should be there. [LB203]

SENATOR HAAR: Okay, thank you. [LB203]

SENATOR CARLSON: Senator Kolowski. [LB203]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I just wanted to ask two theoreticals if I could, Mike. [LB203]

MIKE LINDER: Okay. [LB203]

SENATOR KOLOWSKI: What if this was part of a roadbed next to a school...schoolyard, and over time with all the constant traffic it would be disintegrating, perhaps? Is there any problem with dust and things around school kids as far as anything that you would think would be fearful? [LB203]

MIKE LINDER: In this material, I don't believe so. [LB203]

SENATOR KOLOWSKI: Nothing like that? [LB203]

MIKE LINDER: I don't believe so. [LB203]

SENATOR KOLOWSKI: If it was part of an embankment holding up something, holding something back and that embankment led into a stream, over time, as far as disintegration, again, would there be any concerns of anything in that water? [LB203]

MIKE LINDER: I don't believe so. [LB203]

SENATOR KOLOWSKI: Okay, thank you. [LB203]

SENATOR CARLSON: Okay. Any other questions? All right, seeing none, thank you for your testimony. [LB203]

MIKE LINDER: Thank you. [LB203]

SENATOR CARLSON: Anyone else in the neutral position? Welcome, Mr. Pollock. [LB203]

ANDY POLLOCK: Thank you, Senator Carlson. Mr. Chairman and members of the

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committee, my name is Andy Pollock, it's A-n-d-y P-o-l-l-o-c-k. I'm here to make, hopefully, a brief appearance on behalf of Waste Connections, a waste disposal company that has operations and landfills across the state. And I would say, first off, we are really here neutrally. We have no opposition at all to the bill. I am pleased to hear there is an amendment. I have not had an opportunity to see the amendment, but it sounds like a good one in terms of clarifying the definition of what "product" would be. Waste Connections simply asked me to say that they very much think that the portion of the bill that deals with and requires that the product be managed as an item of value in a controlled manner and not as a discarded material is an important component of the bill. We're not looking for more stuff to put in landfills. That's not the purpose here. The purpose is just to make sure that this is used in a controlled way, like the roads. And in fact, Waste Connections is a customer of...I don't know if it's Nucor, but we buy slag and we build roads with it for our own private properties and we use that fairly frequently. So it is a good product and it does have all the values that you've heard. Our simple concern is that it not be discard. That, for example, it not be dumped into ravines and holes in the ground and things like that, that it be used for a beneficial use like putting it on a road or something like that. With that, I would conclude my testimony, and I'd try to answer questions, although the technical ones will probably be beyond me. [LB203]

SENATOR CARLSON: Okay. Thank you. Any questions for Mr. Pollock? Yes, Senator Haar. [LB203]

SENATOR HAAR: Thank you. [LB203]

ANDY POLLOCK: You're welcome. [LB203]

SENATOR HAAR: Now there are some things, for example, like electronics which are just disposed of and which also can be used. I mean, there's this double thing you could either recycle them and reuse them or you can just dispose of them. I'm just curious, does your company have to deal with that issue, things being thrown away that are actually hazardous and have to be managed in a certain way? [LB203]

ANDY POLLOCK: Again, without getting into the details and I'm simply not equipped... [LB203]

SENATOR HAAR: Sure. [LB203]

ANDY POLLOCK: ...Senator Haar, to answer the technical side of that. But I would venture to guess, and I'd be glad to check and get back to you if I'm in any way wrong... [LB203]

SENATOR HAAR: Okay. [LB203]

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ANDY POLLOCK: ...or just to confirm and make sure I'm right. But I would imagine that they deal with that every day. That that's an issue that they are subject to fairly significant regulations by the Department of Environmental Quality about what can go into that landfill and what cannot. And I would venture to guess it's probably something that they take very seriously and separate the wheat from the chaff, if you will, in terms of what can be disposed of there and what cannot, what has to be recycled in some other way. [LB203]

SENATOR CARLSON: Okay. Any other questions? One of the things in your testimony that kind of jumps out at me is...and it's a positive thing, and I should have realized this, but a waste management company, it's paid by the ton. But you're also saying, don't throw away good stuff. That's good. [LB203]

ANDY POLLOCK: I think it's true. I think we realize there is a value in that and we don't want to interfere or suggest that we shouldn't be using things that have a value that can be used in a controlled way. And I think that is important here, Senator. [LB203]

SENATOR CARLSON: Okay, good. All right. Thank you for your testimony. [LB203]

ANDY POLLOCK: You bet, thank you. Thanks. [LB203]

SENATOR CARLSON: Anyone else in the neutral position? All right, thank you for coming. Thank you for your testimony. [LB203]

SENATOR SCHEER: Can I close? [LB203]

SENATOR CARLSON: Yes, excuse me, Senator Scheer. [LB203]

SENATOR SCHEER: Thank you very much, Chairman Carlson. Just a few things very briefly. A lot of the discussion, a lot of your questions had to do with, I think, the technical makeup and did it change over time other than size. And I think you listened to the testimony, and over the last...they had a report on the diagnostics of the...the breakdown of material three years ago, and they just received the last two years, and it essentially remained the same over that period of time. So to answer your question more directly in closing, Senator, it remains constant. When they were saying that the biggest...the differentiation is just simply the size of the product, not the physical makeup of the product. It has been used, and I appreciate Senator Haar's concerns about the environment and health issues, nothing is for certain on any product. Any product can be misused and there can be unintended consequences 150 years from now that we will not know now regardless of if we approve something or not. So I appreciate the concern. But at this point in time, and over the last half century that it's been used, at least up in northeast Nebraska and the rest of the United States, there have not been any health consequences, period, that have been reported. And to the

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point of why are we doing this now, personally, this is a big deal. Nucor Steel has invested several hundred million dollars in my district. It employs over 900 people within my district. It is a major mover of our local economy and that of the state of Nebraska. For them to rely on the ability of an individual or a department to unilaterally decide that it is no longer a product that may be used would scare me as well. And when you have that type of investment, I'm certain that each and every one of you would want the same guarantees, the same perspective that their product would be able to be used. Again, going back to my milk scenario, if you had a dairy and all of a sudden you were concerned that you were not going to be able to sell butter as well, just the milk, that would be a concern. Is it happening now? No. But the possibility does exist. And they want to take that indecision, that possibility out of their equation so that they can move forward with their financial plan and their sales and marketing far into the future. And I would hope that that would include bolstering the economy in the state of Nebraska, my district as well. And so, lastly, I would leave you that we have provided you with a...perhaps a different definition of product. My staff and myself remain at your desire to help rework that if that does not seem palatable to you. We're certainly amenable to trying to work with a solution to that. We would just like to come to a conclusion for a major manufacturer in the state of Nebraska so that there is some certainty in their business. With that, I would thank you. [LB203]

SENATOR CARLSON: Okay. Thank you. Any questions of Senator Scheer? Just to clarify a statement that you made. So to your knowledge, because again the term slag... [LB203]

SENATOR SCHEER: Um-hum. [LB203]

SENATOR CARLSON: ...but what was slag 50 years ago is still slag today. [LB203]

SENATOR SCHEER: Slag or Nusteel is...or "Nustone," I guess is the terminology, has always been exactly what it is. It is always exactly what has been in that jar. Now if you recall in my opening, I did make the comment that Senator Kolowski from growing up in a different area, they had a product that they called slag as well, but it was made out of rock, but essentially sort of the same substance and used, quite frankly, for the same purposes, as far as roadbed and stabilization material. [LB203]

SENATOR CARLSON: Okay, thank you. [LB203]

SENATOR SCHEER: Thank you. [LB203]

SENATOR CARLSON: Thank you for your testimony. With that we close the legislative hearing on LB203 and thank you for coming. I would ask the crowd to leave and we'll go into Executive Session. (See also Exhibit 5.) [LB203]