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Natural Resources Committee
February 19, 2014

[LB840 LB959]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, February 19, 2014, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB840 and LB959. Senators present: Tom Carlson, Chairperson; Lydia Brasch, Vice Chairperson; Annette Dubas; Ken Haar; Jerry Johnson; Rick Kolowski; and Jim Smith. Senators absent: Ken Schilz.

SENATOR CARLSON: Welcome to the Natural Resources Committee. I am Tom Carlson, state senator from District 38, Chair of the Natural Resources Committee. And committee members to my far left is Senator Rick Kolowski from Omaha, District 31. Next to him, Senator Ken Haar from Malcolm, District 21. Then Senator Jim Smith from Papillion, District 14. The empty chair next to him will be filled by Senator Ken Schilz from Ogallala, District 47. To my immediate left is Laurie Lage, our committee counsel, legal counsel for the committee. To my far right is Barb Koehlmoos, the committee clerk. And next to her, Senator Lydia Brasch from Bancroft, District 16. And then the next two empty chairs will be filled by Senator Jerry Johnson from Wahoo, District 23, and Senator Annette Dubas from Fullerton, District 34. Our page for today is JT Beck, senior at UNL. And if you need any help he'll be very willing to help. Now we have...we're changing order and LB959 is going to be first...excuse me, LB840...LB959, I'll get is straight is going to be first. Who is here to testify for LB959? Okay. Who is here to testify for Senator Haar's bill? Okay, all right, thank you. And you should have a green sheet and have it filled out if you're going to testify and then turn that into the box by Barb Koehlmoos before you take your seat in the chair. And then when you're ready to speak, we ask you to give your full name and spell it so that we have accuracy in transcribe of the hearing. And we're happy to have all of you here this afternoon. And so since the first bill is the one I'm presenting, I'll turn this over to our Vice Chair, Lydia Brasch, Senator Brasch.

SENATOR BRASCH: We will be ready to proceed on the first item on the agenda, LB959. Welcome, Chairman Carlson. [LB959]

SENATOR CARLSON: Good afternoon, Senator Brasch and members of the Natural Resources Committee. I am Tom Carlson, T-o-m C-a-r-l-s-o-n, representing the 38th District, here to introduce LB959. LB959 would exempt any reservoir with a maximum water storage capacity of 50 acre-feet and constructed prior to 1973 from an application process required by the Nebraska Department of Natural Resources. The issue came to my attention more than a year ago when constituents in my district began receiving letters from the department requiring that they apply for a permit if they owned a reservoir capable of storing 15 acre-feet or more. Additionally, the letter said that water may not be stored in such reservoir unless such storage was authorized by an order of the department. Consequently, any owners who had not received such authorization would be required to pass through such reservoirs any water coming into them until the

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owner complied with the law by permitting, altering, or removing the structure as stated in the letter. That became a scare to quite a few people that received that letter. The letter further stated that owners were prohibited from storing or using surface water until further notice due to the Republican River Compact and drought conditions. My office and others contacted the department where to their credit they had dedicated personnel addressing the issue. There seemed to be no definite time lines for fulfilling the permitting requirements in order to give landowners time to have their storage capacity determined. Many of the older dams were filled with silt or vegetation. However, the cost of hiring a professional engineer to alter the size of the reservoirs would be prohibitive for many of the landowners. The subject is not new to most of you, as this committee held an interim hearing in Kearney last December and from that testimony I had LB959 drafted and present it today. To summarize, LB959 would exempt certain water storage reservoirs from the department application process if constructed prior to 1973, as long as the dam complies with safety guidelines, is not altered to increase its storage capacity, and not utilized for irrigation. There will be further testimony from those directly affected by the situation. And I'd be happy to try to answer any questions before they begin. Thank you for your attention. [LB959]

SENATOR BRASCH: Thank you, Senator Carlson. Are there any questions from the committee? Seeing there are none, we would like to welcome the first proponent to come forward. [LB959]

SENATOR CARLSON: And I appreciate, Senator Brasch, that you're taking over here. I have another bill in another committee that I've got to get to right now and if I'm back to close I will, otherwise I'll waive. [LB959]

SENATOR BRASCH: Very good, thank you. [LB959]

SENATOR CARLSON: Thank you. [LB959]

SENATOR BRASCH: Welcome. Will you please say and spell your name. [LB959]

JOHN THORBURN: (Exhibit 1) Thank you, Madam Chairman. My name is John Thorburn, J-o-h-n T-h-o-r-b-u-r-n. I'm the manager of Tri-Basin Natural Resources District in Holdrege. Tri-Basin NRD encompasses Gosper, Phelps, and Kearney Counties and as our name implies, portions of the Platte, Republican, and Little Blue river basins. As the senator already stated, my office was also contacted by dozens of my constituents who received notices from the Nebraska Department of Natural Resources last year informing them in no uncertain terms that small dams they own are not properly permitted. Letters went on to state in red type that the owners are prohibited from using surface water until further notice and that they may be subject to civil and criminal penalties if they continue to store water. These letters upset my constituents. Most of these dams have been in place for at least 50 years. When they

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were built, usually with federal government assistance, landowners were motivated to construct these reservoirs because they wanted to be good stewards of the land. Their purpose is to protect their land and their downstream neighbors from soil erosion, sedimentation, and flash flooding. These enduring improvements to the land have served the purpose for which they were intended. Evidence of that benefit can be found not just on the land where the dams are located, but far downstream. Harlan County Reservoir, for instance, is silting in at a much slower rate than was estimated by its designers thanks to the efforts of upstream landowners to reduce erosion. In most cases, these small reservoirs also provide water for cattle. And having a supplemental water supply improves grazing distribution in pastures and adds to the value of pasture land. The department's position, as I understand it, is that these small reservoirs need to be either properly permitted, altered, or removed. Permitting would, at first, seem to be the preferable option for landowners and the department has urged them to fill out the necessary paperwork to enable them to get a permit. The problem with that option is that landowners will receive a water right with a 2013 or 2014 priority day. With such a late priority date, dam owners will only be allowed to store water in the very wettest of years. They would, in many instances, be required to pump out any water that accumulates behind their dam when it is not in priority and that just isn't practical. Alternatively, landowners can modify their dams so that they store less than the statutory minimum of 15 acre-feet. That can be done, but it will likely cost many thousands of dollars. Disturbing settled, vegetated emergency spillways to reduce shortage capacity also increases the likelihood that dams will fail catastrophically in a heavy rain event. The final option for landowners is to remove their dams. This is, in most cases, cheaper than modifying a dam, but it eliminates all the erosion protection and flood control benefits that these reservoirs provide. This is the difficult position in which the department has placed landowners. These small dams don't comply with the department's rules because when they were constructed back in the 1950s and 1960s, either the landowner or the federal Soil Conservation Service apparently didn't file copies of dam design plans with the old Department of Water Resources. It is also possible that the department's own recordkeeping is inadequate. Regardless of the reason, the department has placed the burden of proof on landowners to find records and plans for these dams that were built either by their ancestors or unrelated prior landowners 50 or more years ago. It would be easier for my constituents to accept this situation if enforcement actions were being taken in a timely manner or as a result of new information. The fact, however, is that the department has been aware of the existence of these dams for many years. The department's own records show that they...and their personnel have regularly inspected many of these dams over the past several decades and that the old DWR did a comprehensive, statewide inventory of small dams in 1973. Yet now the department expects landowners to comply with their rules without delay and without regard for the impact that their tardy enforcement has on these good people. For this reason, my district and the NARD support LB959 which we consider to be a fair solution to this new-found problem of unpermitted dams. I urge the committee to advance this bill to the floor of the Unicameral and exempt small

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reservoirs constructed before 1973 from state permitting requirements as long as those dams are maintained in accordance with dam safety guidelines, not altered to increase their storage capacity, and not used for irrigation. Thank you for your consideration of my testimony. [LB959]

SENATOR BRASCH: Thank you, Mr. Thorburn. And Senator Dubas has joined us now. Are there any other proponents that would like to be heard today? Oh, questions from the committee, I'm sorry. Okay, questions from the committee? [LB959]

SENATOR HAAR: Yes, thank you. I'm looking at the introducer's statement and I suspect this is just a typo, but is it 50 or 15 acre-feet? [LB959]

JOHN THORBURN: I believe the number is supposed to be 50, Senator. [LB959]

SENATOR HAAR: Oh, 50. [LB959]

JOHN THORBURN: And that would be total storage including flood storage. So it's not what we call a permanent pool; it's how much water may back up temporarily after a flood event. [LB959]

SENATOR HAAR: Right, right. Okay. [LB959]

JOHN THORBURN: And that is consistent with prior statute from the 1940s, I believe. [LB959]

SENATOR HAAR: Do the NRDs do anything else with dams on a regular basis, or that's just the NRD that does that? [LB959]

JOHN THORBURN: Well, NRDs have... [LB959]

SENATOR HAAR: I'm sorry, DNR? [LB959]

JOHN THORBURN: Well, okay, yeah, the alphabet soup. [LB959]

SENATOR HAAR: Yeah. [LB959]

JOHN THORBURN: The Department of Natural Resources is in the business of inspecting the dams for safety. [LB959]

SENATOR HAAR: Um-hum. [LB959]

JOHN THORBURN: And then also in administering the surface water rights program. The natural resources districts have a long history working with landowners to control

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erosion and flash flooding and that sort of thing, so we have been for many years working with landowners to build these small structures. [LB959]

SENATOR BRASCH: Are there any other questions from the committee? Yes, Senator Kolowski. [LB959]

SENATOR KOLOWSKI: Thank you, ma'am. John, I appreciate your statements and we had the same issues over at the Papio NRD of course, and I think the lessons that I hope will be learned by the department would be the tactfulness of the letters they sent out and the red lining of the key words and making people feel like they were going to be arrested the next morning or something. It caused a lot of angst by a lot of people. And they could have done a number of things that would have alleviated that feeling if there would have been better communication and a softer mail out to everyone involved. Would you comment on that from your own experience and what we might do in the future? [LB959]

JOHN THORBURN: Well, Senator, I come...you know, working for a local political subdivision that, you know, we take pride on acting as public servants and working for the people that we serve and try to work cooperatively with them to the extent possible. Now there are times when it is necessary to enforce rules and regulations for the benefit of the general public. But, yeah, it certainly has always been our approach to try to work cooperatively with people first and only use our enforcement powers when absolutely necessary. And that said, Senator, I think part of the discussion here should be a cost benefit discussion as well. These dams have been in place for many years. Their benefits are going to diminish over time as they silt in and eventually most of them will fill up with silt and just simply go away. It's hard for us to understand the benefit of that expenditure of time and resources to go after, so to speak, these landowners for these structures. [LB959]

SENATOR KOLOWSKI: Thank you. Do you also...in your experiences with your NRD, have you had any dams fail in the last number of decades? [LB959]

JOHN THORBURN: In my time with... [LB959]

SENATOR KOLOWSKI: Yes. [LB959]

JOHN THORBURN: ...the natural resources district, which is 18 years, no, that has not been my experience. It certainly is possible with earthen dams that, you know, for any number of reasons whether it's rodents or just accumulated erosion, the things do eventually fail. But in a small watershed, if you have multiple structures, one can fail and the others can take up that slack or buffer that impact. [LB959]

SENATOR KOLOWSKI: Okay, thank you. [LB959]

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SENATOR BRASCH: Senator Dubas. [LB959]

SENATOR DUBAS: Thank you, Senator Brasch. It doesn't appear we'll be able to ask DNR any questions today, so the question I'm going to ask you I know your answers will probably be speculative, but just your view on one. [LB959]

JOHN THORBURN: I'll do my best. [LB959]

SENATOR DUBAS: According to your testimony, DNR has been aware of these dams, I mean, there have even been inspections and things like that done with them, is that...am I understanding that right? [LB959]

JOHN THORBURN: Yes, Senator, that is the record that there was this inventory done in the 1970s and that's why that date of 1973 is used. [LB959]

SENATOR DUBAS: Okay. And so what is your understanding as to why all of a sudden these letters were sent out and almost...now we're having to, maybe, require permits and all these other things? [LB959]

JOHN THORBURN: I really do hesitate to speculate about that, Senator, and what motivated the department after all these years to decide that these dams...and it appears particularly focused on the Republican Basin at this time, although Director Dunnigan has said this would be a statewide policy. But, you know, it is focused on the Republican Basin first which I would speculate may have something to do with the Kansas-Nebraska lawsuit. [LB959]

SENATOR DUBAS: So, I mean, would there be...what's the advantage of now requiring these permits and some of these other things that we would require of these landowners? [LB959]

JOHN THORBURN: In terms of practical benefit or helping to provide more water in the Republican system, I think is very minimum. As to what legal reasons it may be necessary, I'm not able to say. [LB959]

SENATOR DUBAS: Well, I mean, I certainly would agree with the comment that you made about these smaller dams. I know we have several on our property where, you know, over time it's just...you're not going to spend the money to clean them out or bring them up to speed and so they eventually just, like you said, go away and I would think that that's probably what we would see with a lot of these as well. Thank you. [LB959]

JOHN THORBURN: Thank you, Senator. [LB959]

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SENATOR BRASCH: (Exhibits 2, 3, and 4) Are there any other questions from the committee? Seeing there are none, thank you very much for your testimony. Are there any other proponents? Are there any...oh, there are two letters to be read in support and it's Amy Prenda from the Nebraska Water Resources Association and Diane Scriptor and Shirley Thorell as well. Any opponents? Seeing there are none, are there any in the neutral to testify? There is one letter of opposition here from Brian Dunnigan, Director of the Department of Natural Resources. Seeing there are no more in opposition or neutral, that concludes the hearing on LB959. [LB959]

SENATOR HAAR: I'm up next.

SENATOR BRASCH: You're up next. Now we are moving to LB840 and welcome, Senator Haar. [LB840]

SENATOR HAAR: Thank you very much. Vice Chair Brasch and members of the committee, LB840 has to do with NRD water well regulation. And it would allow, not require, allow the NRDs to require a permit for any new or replacement water well in a water management area, be up to the NRDs. NRDs can set up water management areas under existing process when there's a concern about water quantity, water quality, or conflicts between ground and surface water. But currently, only wells of less than 50 gallons per minute or less are exempted from regulation by the NRD. So right now, unless it's less more than 50 gallons a minute, they can't regulate. This legislation would allow NRDs to regulate new and replacement wells regardless of the size, should the district choose to. Just a little bit of background and then we're going to have a couple of people testifying. As we all know when we run for office, going door to door is really important. And sometimes you bump up against problems you weren't even aware of. And this is an example of that, and you'll hear more about it in the details of development, not too far from my place. And the part of the county where I live in Lancaster County, the soils can be different from 2 feet to 2 feet and we really, as individuals, don't have a very good idea of what's underground and well drillers will always say there's plenty of water. (Laugh) So with that I will close my opening and then I'll be here to close, of course. [LB840]

SENATOR BRASCH: Thank you, Senator Haar. Are there any questions from the committee? Seeing there are none... [LB840]

SENATOR HAAR: Okay. [LB840]

SENATOR BRASCH: ...I will ask for the first proponent to come forward. Welcome. Will you please say and spell your name. [LB840]

SUSAN FRINK: Susan Frink, S-u-s-a-n F-r-i-n-k. [LB840]

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SENATOR BRASCH: Thank you, Susan. [LB840]

SUSAN FRINK: Good afternoon. As neighbors of Lancaster County, we urge you to vote for LB840. With water issues being in the forefront of our weekly news, Nebraska needs to give authority to the NRD to help protect our state's most vital resource. Had LB840 been in effect in 2007 when our neighborhood faced a new acreage subdivision that added 22 more wells on a mile road already strained with 32 acreages, we may not be facing the well challenges that will be in our future. In 2007, we were sent a letter proposing the zoning change for 22 acreage lots and were asked to meet with the developer and engineer to discuss his plans. More than 30 of us attended the meeting. When asked how he thought he could provide adequate water for all of these lots, the developer's engineer responded that it is a buyers beware situation. How would you like to build a dream home on a \$75,000 lot and then be told it's a buyers beware situation? Many times you will see an acreage home inclosed and nearly finished when they are first starting to drill a well. New acreage owners are often ignorant of any potential water problems. Adding 22 wells brings the total number of wells within our mile road up to 54. This is more than the village of Emerald which has 19 wells. Emerald has an infrastructure in place. With this new subdivision, the county has allowed a village to be formed on our mile road with no infrastructure to support the long-term needs of the neighborhood. As neighbors, you normally would hire a lawyer to represent us at the planning commission and county board hearings. We instead hired a professional geologist specializing in groundwater to represent us. At the planning commission hearing, we challenged the developer's water report, asking why they used only 50 gallons per person per day versus the industry standard of 100 to 120 gallons per day and did not allow for any lawn watering. The hydrologist responded, there is not an abundant water supply. We had more than 50 neighbors in attendance for the hearing and we all applauded at the time because the developer's hydrologist said what we had been trying to tell everyone, we do not have an abundant water supply in our area. We did consult with the Lower South NRD...Lower Platte South NRD and they did provide a memo referring to the many groundwater quantity and quality concerns with declining well yields and degrading water quality in our area, commenting further that it is reasonable to assume that some of the wells in the proposed development could experience problems similar to those experienced in wells nearby. Well yields could be significantly reduced in times of drought during the full heat of the summer. The nine-member planning commission, of which two members were absent, voted 7-0 to deny the application mainly due to lack of water. Sadly, when it came to the county board hearing, all of the information was presented again, but they disregarded it and approved the project with only three votes of the five board members. It took only three votes of the total of 12 voting members to approve 22 more wells. One of the county commissioners was bold enough to tell the neighbors at the hearing that people prefer to drink bottled water anyway. When our wells go dry we will be forced to seek rural water. In 2007, when we researched what long-term options would be, the NRD could not identify a rural water source large enough to support the northwest part of Lancaster

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County. We, ultimately, will be on our own when that challenges arise. Had LB840 been in place in 2007, the NRD might have been able to provide some protection to our neighborhood. All we're asking is please vote "yes" on LB840. The citizens of Nebraska need NRD to have the power to protect our vital water resource. And with me being one of the landowners and close proximity to the new development, we're probably the most affected out of most of the surrounding landowners because we're in the direct line of the vein of the aquifer. I've noticed the last two years we've had a decrease in water pressure. Possibly drought has caused some of this, but I have reason to believe that those 22 new homes has affected some of that water capacity. [LB840]

SENATOR BRASCH: Thank you. Are there any questions from the committee? Yes, Senator Kolowski. [LB840]

SENATOR KOLOWSKI: Thank you, ma'am. Ms. Frink, on the possibility of putting in a rural water system with a deep well tank, the whole nine yards, we put all that into a location, would your neighbors feel comfortable with that kind of water source and to lose the individual wells they have now because of the difficulties you're talking about, which we've done this in the Washington County area, if you've looked at or studied any of that up there with the Papio NRD, would that be a possible solution for you? [LB840]

SUSAN FRINK: I think it would be more of a peace of comfort and mind just because me as a landowner, I know what I have vested time and money, it's not going to be worth anything without water. I think, however, you're going to find a hard time getting to supply...the quantity of water able to supply that whole neighborhood with that many homes in that small area. [LB840]

SENATOR KOLOWSKI: And how many homes is it there are right now, ma'am? [LB840]

SUSAN FRINK: There's 54 wells within that mile area. And I'm not sure if that's just...I think that's just the 32 that were before and then the 22 new ones. And then there's outlying homes around there that have been there for...I've been there over 30 years. [LB840]

SENATOR KOLOWSKI: We could use your video of your comment about water as we're doing our state work right now; it's a very important statement, so thank you very much. [LB840]

SUSAN FRINK: Um-hum. [LB840]

SENATOR KOLOWSKI: You're just a microcosm of the macro that we're looking at. [LB840]

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SUSAN FRINK: I'm very concerned. And I'm very scared of what the future will be.
[LB840]

SENATOR KOLOWSKI: We should be. Thank you. [LB840]

SENATOR BRASCH: Thank you. Are there any other questions from the committee? Seeing there are none, is there any other proponents? Could you please spell and say your name. [LB840]

PATRICK CONOVER: Okay. My name is Patrick Conover, P-a-t-r-i-c-k C-o-n-o-v-e-r.
[LB840]

SENATOR BRASCH: Thank you, Mr. Conover. Could you please... [LB840]

PATRICK CONOVER: Senator Brasch and to the committee, I wanted to comment on your question to Miss Frink on the deep well drilling. Our aquifer is completely rain fed. There's no, like, Ogallala or anything like that. And our wells are shallow. Mine's approximately 75 foot deep. Time you get down to Pawnee Lake, their well is about 35 foot deep. You get...and then you hit bedrock. And below that bedrock is saline water. So the cost of purifying that water would be astronomical. That's why we're pretty protective of where we are and they got to be very careful when they drill wells not to bust through that. And I believe they have to plug that if they do so it doesn't contaminate us all. This is a situation that it's not a new problem. This dates way back to overtaxing the water tables. Approximately 7th and Fletcher Street, just north of Lincoln, out by the Fallbrook Estates, in that area they allowed so many wells that it came to a point to where it's like, you know, even numbers can do their laundry this day, odd numbers this day. Otherwise, it would draw it down and then nobody would have any water, you know, to bathe, to whatever else with. And that's our big concern out here. And, you know, and other places. The determining factor of a...some people that for whatever reasons whether it be personal or just tax based reasoning, let's throw all these houses out here so we can get more, you know, infrastructure money without regard to what the potential hazard could be. It is a very dangerous thing. And as Sue commented, we did hire a professional in this field and he had a doctorate in this over just a civil engineer. And it's a scary situation. My water affected...it seems to be down a little bit, but, you know, I do know my neighbor directly to the east of me, the Engelbarts, they had a...and their house has just been built within the last six years, maybe seven years it was, they had to lower their well already 3 feet because they were already starting to suck air, you know, into their home. Whether that was a drawback of the driller or something I do not know, but I do know they had to lower it and they are no longer having the big gardens that they had before and pouring tons of water onto it. They still have one, but...it's...it's...you know, in our situation it's too late. And you talked about the deep welling and the water issues, back in '92 there was a study done by the county to see about getting rural water into some of these areas and back then it was

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like \$19.5 million which we can consider now would be extreme...quite a bit more. But subsequently, one of the places was Bee, Nebraska, which is north of Seward which is quite a ways away and the other was Adams. But it wasn't cost effective and at that time there wasn't as many people out there. The developments that are going in and the...you know, to the rural population is growing rapidly. And it is actually higher than what they're allotted to have...that the county says you can have X-amount of percent rural as compared to, you know, of what the county population is if, you know, for city dwellers. And I believe the NRD would be more equipped to handle these situations so that we're not...I guess my best analogy is putting too many straws into the cup. Our situation is pretty much a done deal, hopefully if there is some way that we could get rural water out there that would be wonderful. I would be all for that. We have really good sweet good, good water right now, but I'm afraid, you know, it's...could be in jeopardy. We have approximately nine of the 22 homes built and more are going up. And they're breaking ground quite a bit now. I believe he has finally sold all but one or two of his plots out there. So that's why I'm so in favor of the NRD having more jurisdiction than just say, do what you want because we'll get a couple more dollars for our road. Thank you. [LB840]

SENATOR BRASCH: Very good, Mr. Conover. And are there any questions from the committee? Yes, Senator Kolowski. [LB840]

SENATOR KOLOWSKI: Thank you, ma'am. Mr. Conover, thank you for your comments today; certainly feel for the situation that you're in and hope we can find some solutions to this. I wonder if the...some of the rules or regulations or restrictions or whatever else need to be in place either with the political boundaries that you're living in or the county as a whole because, I mean, landowners and land developers are there to develop land and to sell. And there may not be any thought of a hydrology study before they say--this looks like a nice chunk of land, let's develop this and doesn't help when you put homes on it, then you don't have water, so we can't always think in those terms. What is the distance from where you live to say the closest Lincoln water line? How far would that be? [LB840]

PATRICK CONOVER: Approximately...between four and five miles. [LB840]

SENATOR KOLOWSKI: Okay. [LB840]

PATRICK CONOVER: But the problem with that, you know, and I've wished that could happen, but the city of Lincoln's policy is we're not going to give a drop until our boundary is...you are encompassed. [LB840]

SENATOR KOLOWSKI: Sure. No, I understand. I was just trying to get a example of distances. [LB840]

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PATRICK CONOVER: Yeah, yeah. [LB840]

SENATOR KOLOWSKI: Because we face the same thing in the Papio NRD with the rural water systems that we've developed in Washington County. Some little towns as close as Kennard and others are having difficulties with nitrates and all the rest of their drinking water and they've requested that we run a line a mile, mile and a half, two miles over to their town, but that's not cheap to do and it's a very challenging issue on overall prices to get some of those things done. But there are solutions and we've got to look at what they might be and I hope as you continue your search and with this potential bill, those things might be more palatable in the future for you. [LB840]

PATRICK CONOVER: I do know, sir, that the...like Gage County has run rural water lines, there's hundred of miles that they've put out there. I talked to one of the people putting them in and they said they're pretty much...everything south of Beatrice is getting rural water. So that would be something if, you know, that would be a wonderful thing if, you know, and I do know it's not cheap, but anything is better than what we possibly could end up with in the future. Like Sue said, if we have an extremely dry year, our bowl could get pretty dry. [LB840]

SENATOR KOLOWSKI: All those NRDs...I've got a bill on Friday when we will be talking about a certain bonding authority, but that's another time. But to that opportunity for NRDs to develop some water systems and to pay it off in bonds with the large territory out there full NRD in mind, they could develop different water systems and the interconnectivity of that over time might lead to more development in that particular area because they're guaranteed water. So it can be an economic draw for certain areas by enticing people to come live there because they do have water. [LB840]

PATRICK CONOVER: As far as I know right at this point, there is no minimum water requirement. And there is...one of the test wells on this particular project next to us did test positive...above safety standards for nitrates, but the reply is reverse osmosis systems and larger supply tanks. [LB840]

SENATOR KOLOWSKI: Can you describe your...the depth of the water and the other saline water underneath...all the layers within the substructure there and that's a real issue, of course, but sometimes you just have to go a little farther from where you are to run water to where you are depending on the topography and how the water drains underground. [LB840]

PATRICK CONOVER: Yes, this is true, because I have a very dear friend that lives about a mile and a half over and his well is 180...well, he's drilled 300 and his head is 180 feet deep. [LB840]

SENATOR KOLOWSKI: Thank you very much, sir. [LB840]

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SENATOR CARLSON: Any other questions? Seeing none, thank you for your testimony. [LB840]

PATRICK CONOVER: Thank you. [LB840]

SENATOR CARLSON: (Exhibit 5) Any other proponents? We do have a letter of support for LB840 from John Berge, I believe it is, of North Platte Natural Resources District. Any opponents testifying? Anyone in the neutral position? Okay, seeing none, Senator Haar. [LB840]

SENATOR HAAR: Well, thank you very much. This is a case where early on we tried to go to the planning commission and the county board and people are just saying--where do I go to get help, you know, where do I go to get help? I went back and got the newspaper stories from when that development was going on. And one of the commissioners said that the testimony of these folks offered no science to indicate that 22 additional acreages would affect existing residents. And I think NRDs can bring the science to the situation. Certainly there's a lot we don't know about the hydrology of any area, but there is some other places around, Butler County and so on, I know where they're having similar problems and they bring in equipment and bring science to bear. So that's really what this is about, is to bring science to bear. Generally, NRDs have a pretty good idea of where water would be scarce and not scarce within their NRD. And then additional...as my bill would do, they could set up a district and say within that district we have to do more testing. And so that within just a small district an NRD could choose to permit wells. And the problem with what's happened in my area there is now people are stuck with that, it's grandfathered in and where it's really going to make an impact, of course, is if the wells start to run dry. And then those officials who are now sitting on the county board and the planning commission are going to get the phone calls, of course. And whoever is sitting in my position as...and that's appropriate, but it's too bad we can't take care of that, apply the science up front and take care of the problem before it happens. The whole thing of rural water, I know, is something that's been explored, but in my area again, the aquifers are shallow, they're rain fed, and it's hard...I know some of the initial research that was done on that showed it would be just hard to even find the water for a rural water system on a reliable basis. Again, I thank you for your attention and would be happy to answer any questions. [LB840]

SENATOR CARLSON: Okay. Thank you, Senator Haar. Any questions? Yes, Senator Kolowski. [LB840]

SENATOR KOLOWSKI: Thank you, Senator Haar, appreciate this topic very much. I appreciate bringing forth the science. We don't usually do that very well sometimes in some of our issues and thank you for bringing that approach to us. Sometimes rural water lines need to go long distances. [LB840]

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SENATOR HAAR: Yes, yeah. [LB840]

SENATOR KOLOWSKI: And to find out where the water is and as you do drillings and all the rest to bring that about. That was part of our challenge in Washington County as we worked up in that area as well. But it is...it seems like one of the viable solutions, even though it costs to run those lines and to get those maintained and...but it is a natural and consistent source of water. I hope that might be one of the options that would get looked at in this whole thing. How do you feel about the nature of the county rules or regulations on these kind of developments that everyone loves to go out and have an acreage and do those kind of things, if you can do that, but without water you're not going to be able to last very long. [LB840]

SENATOR HAAR: Yeah. Now my understanding is that when you...one thing the county has done, when I bought my acreage and we developed, you have to have at least 20 acres. Now it's down to 5 acres. And you have to have a test well drilled, but, you know, and I know it's the business, but well drillers will tell you there's plenty of water. (Laugh) And so buyer beware is a great little slogan, but when it comes to things like this, I mean, I think getting the science, the NRDs involved would make a lot of sense. [LB840]

SENATOR KOLOWSKI: So you're telling us, don't have a swimming pool and have small gardens. [LB840]

SENATOR HAAR: That's right. [LB840]

SENATOR KOLOWSKI: Okay. [LB840]

SENATOR HAAR: And one of the ideas, of course, is to sneak up on Lincoln and just attach to one of theirs, but they have water guards all over (laughter) and...yeah, it's an iron-clad policy of Lincoln. And really, it's helped the development of Lincoln. I was on the city council for awhile to say, you know what, if you want our water, you're going to have to become a part of the city. And Omaha has run into problems because they didn't do that. So that's that policy and here we have people who are stuck with what they have right now. But, hopefully, we can prevent some things in the future. [LB840]

SENATOR KOLOWSKI: Thank you. [LB840]

SENATOR CARLSON: Any other questions? Okay, seeing none, thank you. [LB840]

SENATOR HAAR: Thank you very much. [LB840]

SENATOR CARLSON: And with that we close the hearing on LB840. Committee, thank

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you. [LB840]