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Natural Resources Committee
September 21, 2015

[LR323]

The Committee on Natural Resources met at 1:00 p.m. on Monday, September 21, 2015, in the Theatre, North Platte Community College, South Campus, North Platte, Nebraska, for the purpose of conducting a public hearing on LR323. Senators present: Ken Schilz, Chairperson; John Stinner; Al Davis; John McCollister; Dave Schnoor; Brett Lindstrom; Curt Friesen; Jerry Johnson; Dan Hughes; and Matt Williams. Senators absent: Rick Kolowski.

SENATOR SCHILZ: Good afternoon and welcome. If everybody could take their seats, I think we'll get started here. We've got quite an array of senators to cover this hearing today, so I don't want to...we've got quite a few folks that want to comment, so I don't want to keep us waiting any longer than we have to. The hearing today does go from 1:00 p.m. until 4:00 p.m. and the 4:00 p.m. deadline is pretty solid, so we're going to try to get out of here and get everybody in and get everybody testified. Just a little note to the folks sitting up here on the panel...the senators, be mindful of that. Know that there's a lot of folks here that probably want to speak and we need to allow them to do that. We will have five minutes per testifier, just so everybody knows, we've got a green light assistant there to tell you. The green light goes for four minutes, the yellow light for one minute and then the red light is when you should shut off and stop your comments. I would also say that if you are coming up to testify, and some of the testimony is stuff we've heard from other testifiers already, if you could just please say yeah, I agree with this person or I agree with that person, and move on, that will make the day go even that much quicker. We want to make sure that we get all the information in, but we don't need to just have it repeated again and again. So be mindful of that as we move along. And now we'll get started. Good afternoon and welcome to Natural Resources Committee hearing on our LR today. I'm Senator Ken Schilz from Ogallala, I'm the Chair of the committee. We have quite a few folks here, committee members and others that have come because of their proximity to North Platte and their interest in this issue. And with that, what I will try to do is...I'll just start over here on my far left and I'll let Senator Stinner and everyone else come on down the line to introduce themselves.

SENATOR STINNER: I don't have a microphone, but that's okay. My name is John Stinner, I am Legislative District 48: Scotts Bluff County.

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SENATOR DAVIS: Senator Al Davis, District 43: north central and western Nebraska.

SENATOR MCCOLLISTER: John McCollister, District 20: central Omaha.

SENATOR SCHNOOR: Dave Schnoor, I represent District 15, which is Dodge County, and I'm from Scribner.

SENATOR LINDSTROM: Brett Lindstrom, District 18: northwest Omaha.

SENATOR FRIESEN: Curt Friesen from Henderson, District 34: Hamilton, Merrick, Nance, and part of Polk County...or Hall County.

SENATOR JOHNSON: Jerry Johnson, District 23: Saunders, Butler and Colfax County, and I live in Wahoo.

SENATOR HUGHES: Dan Hughes, District 44: 10 counties in southwest Nebraska.

SENATOR WILLIAMS: Matt Williams, District 36: Dawson County, Custer County, and the north part of Buffalo County, and I live in Gothenburg.

SENATOR SCHILZ: Thank you, and obviously we have Senator Groene here, who will introduce LR323. I'd also like to introduce you to Barb Koehlmoos, here she is, our committee clerk for the Natural Resources Committee. And right here to my direct left is Laurie Lage, she is the legal counsel for the committee. Today we have LR323, that we're going to discuss, and if you are planning on testifying today, please pick up a green sheet. I think they're somewhere around the sides of the room, on this table right over here. And when you come up, if you could just leave that sheet on the table and/or hand it to Barb and she'll take care of that. If you don't want to testify but you want to sign in, the sheets are also over there to do that. When you fill out the sign-in sheet before you testify, please print, and that it's important to complete the form in its entirety. And then like I said, bring it up here to the committee clerk, and she will make sure that you get your name spelled correctly into the record as you give your testimony. And if you don't wish to testify in person here, we can also take comments in writing, and that's fine, and

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you can just hand them in at the same time. And then, if you do have handouts, please make sure that you have enough of them for the whole committee, which is about 12 copies. And if you don't have that, we can work with you to make sure that those get out to everyone. When you come up to testify, please speak clearly into the microphone, tell us and spell your first and last names, that's important. Please turn off all your cellphones, pagers or anything else that makes noise or beeps in any fashion. And please keep your conversations to a minimum or take them into the hallway. There's no displays of support or opposition to a legislative resolution, vocal or otherwise, is allowed at a public hearing, so we want to make sure that the folks that are sitting at the testifiers table have their opportunity to speak their mind and to give their testimony. So no signs of...no clapping, no cheering, anything like that would be greatly appreciated. Like I said, we will use the light system, five minutes per testifier, and when that light turns red, you'll know that you've taken up all that time. So with that, I see that Senator Groene is here and ready to go, so we will start on...we will start on LR323. Thank you, Senator Groene, and good afternoon.

SENATOR GROENE: Thank you, Chairman Schilz. I appreciate all the senators coming to our town of North Platte. I appreciate Senator Schilz and the committee willing to come out here and...right at the heart of what we're discussing. And I hope you enjoy our town. [LR323]

_____: Hey, could you turn it up a little bit? [LR323]

SENATOR SCHILZ: Well, we can...I can tell you this... [LR323]

SENATOR GROENE: If I speak louder, does that help, or echo? [LR323]

SENATOR SCHILZ: Yeah. And here's the thing, folks, and I apologize, but the system here, it may not necessarily get to everyone. But I can assure you that the whole committee can hear what is being said. And I know you guys want to hear, and we'll do everything we can, but it's pretty hard for us to add any more volume to what's going on. Thank you, Senator. [LR323]

SENATOR GROENE: (Exhibit 1) Thank you. I believe all here today have a clear understanding of the present and future economic benefits that 1.4 million acres of irrigated farmland in southwest Nebraska has to the citizens living in the Twin Platte and Republican NRDs. That

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discussion is not why we are here today. Scare tactics of losing 327,000 acres of irrigated farmland was a primary motivator for citizens to look the other way in the creation of N-CORPE. Now that the decision has been made, we are here to ask the Legislature to examine the ramifications of the decision, the creation of the Nebraska Cooperative Republican Platte Enhancement, heretofore is called N-CORPE. I introduced LR323 because of the concerns from citizens in Lincoln County as to the present and long-range effect N-CORPE has on our county. It is a fact that Lincoln County shares the brunt of the related agronomic, economic, tax base, and natural resource cost of N-CORPE. Is it the responsibility of residents of Lincoln County to allow the mining of ground water in the southern part of our county for the benefit of agriculture interests in 16 surrounding counties? Two of the NRDs that benefit from N-CORPE, the Upper and the Lower Republicans, have no acres under their supervision in Lincoln County. Just a little history of NRDs. Most people know this, but the existence of NRDs is a rather recent event. They were created in 1972 by LB1357. As far back as 1975, when LB577 was passed, we knew we were already pumping more water than sustainable and we began monitoring static water levels in wells. Also in 1975, LB 577 clarified that Nebraska ground water is owned by the state. 1985-1986 brought LB1106, created mandates for NRDs to create ground water management plans...first time NRD with approval of state could initiate regulations with approval of the state. 1996, LB108, believe it or not, it's the first time Nebraska law recognized that connection between ground and surface water. Legislature recognized that conjunctive use by ground and surface water was leading to disputes over water in the Republican River Basin between in-state surface irrigators, ground water irrigators in the state of Kansas. 1998, sued by the state of Kansas. State made wrong decision to request Republican River Basin NRDs to withdraw their request to impose well drilling moratoriums because legally it made it appear like we were admitting we knew we were overallocating ground water use and affecting river flows in the Republican. (Inaudible) why we're here today, probably...to large part on that. 2002, LB103 Legislature created the Water Policy task force. In 2003 the task force, which included our illustrious Chairman Senator Schilz, their finding included the following statement in the conclusion on proposed legislation: "In addressing overappropriated basins such as the Platte River, the obligation is to identify the difference between the current overappropriated state and a fully-appropriated state of development in the basin and adopt an incremental approach to eliminate the difference. This obligation to eliminate the difference is paramount. Funding limitations, political acceptance of necessary regulations, and conflicts with the goals of

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economic viability, social and environmental health, safety and welfare of the basin cannot otherwise interfere with the obligation to eliminate the difference." We must protect our ground water, is what they're saying. "In water use: only by eliminating the water use which interfere with the cyclical water supply available when the appropriation was granted, providing compensation which addresses the loss in use of that water supply, or provided an alternate water supply can senior appropriation rights be protected." In 2004, as a result of the water task force and a settlement of the Kansas lawsuit, LB962 was passed: declared certain river basins over or fully-appropriated, finally brought regulation and ability for well drilling moratoriums, certifying irrigated acres, and mandates that those NRDs, fully or overappropriated, create an integrated water management plan. Finally we were doing a plan that involved ground and surface water with assistance from the Department of Resources. In 2007 LB701 allowed purchase of lease water to enhance stream flows, and permitted a maximum \$10 an acre occupation tax on irrigated land to pay for it. It also gave NRDs power to enforce IMPs, Integrated Management Plans. In 2012 LB1125E was passed to clarify occupation tax implementation. Put that in there because the occupation tax is a big concern of a lot of producers. Skipped over a lot of bills that basically clarified past legislation, then in 2014 LB1098 was passed. It was very needed legislation to create basinwide Integrated Management Plans in an attempt to get NRDs in river basins to work together and solve the water issues. It also created the sustainability fund that we started with \$32,000,000 to help sustain ground water in the state. That's just a little history of how we got here today. Concerns with N-CORPE, now I'm relating what I've heard from farmers in the entire Republican River Basin...Platte River Basin...and remember the water belongs to all of us. It's the homeowner in town, it's everybody...that ground water is property of the state and every citizen. We have...we grant usage permits for people to use it, and that's a good thing. The biggest user cost is agriculture, which is the heart and soul of our economy. Number one: the project would not...here's some statements that I've heard over and over again. Spokesmen for the N-CORPE plan told board members of the 4 NRDs and the general public: A. the project would not pump more on average than the estimated 16,000 acre-feet annually, that the past farming operation was limited to underwater...of present water allotments. In actuality, over the first 12 months of the operation, N-CORPE pumped 65,000 acre-feet approximately. Approximately 45,000 in calendar year 2014, and 20,000 in 2015. We have heard rumors of 50,000 acre-feet is needed in 2016. Nearby domestic livestock irrigation wells have shown unusual declines. Should an NRD have to obey the water allotment regulations of their district?

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Should the Department of Natural Resources do their own unbiased study on the long range effects of pumping large amounts of water from a confined area through 30 wells? There's over 14 foot of water if you confined it to the third area of the 30 wells...the 30 quarters the wells are on. You could pile it 14 foot high. That amount of water covered 100 square miles, a foot deep, all out of an area that's less...a township or two. B. N-CORPE spokesmen said that Lincoln County taxing entities would be reimbursed for lost property taxes. Lincoln County has forfeited property tax revenue on irrigated valuations, which in 2012 was...amounted to \$345,000 in taxes. Of course it would be much higher at today's land valuation. The county commissioners agreed to tax the land at dryland values, which amounted to taxes of \$155,600 in 2014. We understand that tax payments have been made so far, but N-CORPE is attempting to receive refunds and are backing away from their commitment to pay in the future. Does the Legislature need to ensure that on these types of projects property taxes are paid, maybe as in lieu of payment? C. N-CORPE spokesmen promised that occupation tax would be no more than \$5 to \$6 per irrigated acre. Is there a good reason why N-CORPE needs to own over 19,000 acres of agriculture land? I would urge the committee to look at making sure that N-CORPE has no excuses not to sell the land as dryland and use proceeds to pay down their debt. The millions spent on bond interest, management, seeding, maintenance and property taxes on the land is a waste. It has nothing to do with their mission. Owning the land is an unnecessary expense. I do not believe the Legislature should next year, or any year, raise the \$10 acre occupation tax limit. We need to force some accountability. Two: some questions I would hope the Committee will look for answers for. Does water in augmentation projects account towards the compliance standards for the pumping volumes in integrated management plans? For example, the Upper Republican NRD has an average of 425,000 acre-feet in the plan that they are allowed. Should a share of N-CORPE water usage go against their usage allotment? Did the Upper Republican shut down pumping at Rock Creek because in the settlement agreement with Kansas, augmentation required that there was no new depletions in the Republican Valley, and they could not get maximum credit for the pumping? Since the water from the N-CORPE project is from Platte River Basin recharge, is that why Kansas agreed to 100 percent credit for the water pumped? It's not coming out of their basin. That brings us to the question: do we allow mining of ground water? Once ground water leaves its original drainage basin for another purpose outside its ecosystem, does it become mining of water? Does the Legislature need to regulate such activities? The Department of Natural Resources stated in their April 22 letter to the Republican NRDs that their effort, N-

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CORPE, had full mitigated compliance with the Kansas demand for water in the latest compact call years. Are compliance standards for the pumping volumes no longer appropriate or needed? Are the Republican NRDs still required to meet the 25 percent reduction in water use? They did not meet it in 2015. Why didn't the Department of Natural Resources continue to send out management action letters reminding the NRDs where they were in compliance with the pumping allowances? Do we really want to take steps backwards and allow increased pumping? So far, it seems the surface irrigators have been left out in the rush to satisfy the Kansas lawsuit. Can we bring some assurance to surface irrigators that they will be able to irrigate in the future? Should the state ensure that they get a piece of the water "pie" in the basinwide integrated management plan? Yet to be incorporated into N-CORPE is Twin Platte's NRD's plan to build a pipeline to the Platte River for compliance of Twin Platte's Integrated Management Plan, starting with 7,500 acre-feet and growing to perhaps 20,000 acre-feet or more after the 2019 phase of the agreement kicks in. Do we need to look at other options? Statewide water plans? Maybe it's time we finally did a basin water plan. Maybe it's time for a statewide water plan. Statewide well drilling moratorium...do we let the Sand Hills River become the next Republican River? They can still put wells up there. Mandate water meters on all irrigation wells so we actually know statewide where we stand on ground water use? We got the state sustainability fund, that would be a good use for it- grants for people to put water meters on their wells. I would call that sustainability. As a state, should we work with our federal officials and the Department of Interior's Bureau of Reclamation to revisit a proposed 1989 plan to divert South Platte flood waters to the Republican River Basin? I've been told that that would come best through the Legislature and through the Department of Natural Resources. Any request to do that? And I think that's a wise thing. Do we continue to turn ground and surface water management decisions in our state over to the judges, lawyers, and water consultants, or do we look for answers to become better stewards of our natural resource, ground water, and head off any more crisis situations heading for the courtroom? Nebraska paid one law firm over \$2.7 million for work on its Kansas lawsuit. The citizens involved in N-CORPE also have many questions: how N-CORPE was formed under an interlocal agreement between the NRDs? How it could borrow millions of dollars without voter approval? How decisions were made before the citizens had input, and should open meetings laws on interlocals and subcommittees be changed to give more accountability to citizens? I understand that these questions belong before the Government Affairs Committee and I will pursue them there. Also, a question is: should we allow employees

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of an NRD or from the DNR to work as a consultant for lawyers involved in lawsuits on issues related to their jobs, which also happened. Conclusion: depending on the testimony today, I believe that it's important to gather the data to make sure that the pumping out of the N-CORPE land does not cause unintended consequences for farmers in the basin. We may need legislation to ensure that sufficient information is gathered and reported to policy makers annually to ensure long-term sustainability of our water resources. I keep hearing that we're local government, and I'm a big proponent of local government, but NRDs which were created by the state, by the Legislature, and there's a litany of laws where we have to keep coming in to give them direction. And there's badly needed direction here. I would ask that you listen to...with a critical ear to determine whether the promises that were made when the project was started are being kept, the pumping is having a disproportionate impact on one county...Lincoln County, the stream flow in the basin, surface water users, and taxpayers, the project is sustainable at the rate of pumping going on today...is it? Is there sufficient data being collected and reported to ensure sustainability and compliance? Hard facts are needed. How much are we actually pumping? There is no way you can make a model for something that's never been done before, pump 65,000 acre-feet out of 5,000 or 6,000 acres into a creek. We don't know how this affects us. We need hard facts, and we need unbiased facts. And I think we need to bring the DNR and give them more authority over the compliance. And thank you, and I'll let the testifiers fill your ears. [LR323]

SENATOR SCHILZ: Thank you, Senator Groene. Are there any questions before Senator Groene gets up?(inaudible) Seeing none, thank you. And at this time, I was remiss before, and I need to thank the folks here at Mid-Plains and Jennifer Morgan for allowing us to use this facility. So we just want to say thanks for that. It's a great facility and it's working out well for us today. Senator Groene has asked me, he's got a few invited testifiers, that he would like to have come first. So I will read them off as they testify, and if they could come up one at a time. We'll still be under the five-minute limit, but let's get going. We have first: Mr. Douglas Hallum, Conservation and Survey Division at UNL. You might want to be careful not to sit back too far, you might end up on the floor back there, so...Mr. Hallum, welcome and thank you for coming in today. [LR323]

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DOUGLAS HALLUM: Senator Schilz, members of the committee, I'm happy to be here today and provide this testimony related to LR323 as introduced by Senator Groene. The testimony is informational... [LR323]

SENATOR SCHILZ: Mr. Hallum, could you say and spell your name, please? [LR323]

Douglas Hallum: Yes, I'm get...(laugh) [LR323]

SENATOR SCHILZ: Oh, I'm sorry. [LR323]

Douglas Hallum: ...is informational, is provided from a neutral position with respect to the issues outlined in the resolution. My name is Douglas, D-o-u-g-l-a-s, Hallum, H-a-l-l-u-m. I'm the survey hydrogeologist for west central Nebraska, which includes the N-CORPE project area. I work in the Conservation and Survey Division part of UNL's School of Natural Resources. Today, I'll speak on two topics, the physical context of the N-CORPE acres in southern Lincoln County, and the relationships between stream flow, ground water, and the intentional manipulation of water by pumping or diversion. The High Plains Aquifer is a collection of sediments that occur regionally...in a regionally thin layer, up to about 1,000 feet thick, covering much of the east sloping Great Plains. Near the projects, the aquifer is about 400 feet thick. It thins to the west and the south and it thickens to the north. The mapped headwaters of Medicine Creek start about five miles south of the N-CORPE acres, corresponding with the southern pipeline discharge. The stream flows southeast through Wellfleet and Harry Strunk Lakes eventually into the Republican River. Last Friday, the 18th of September, the channel did not contain flowing water for about 2.5 miles below its mapped headwaters. The NPPD Canal is about nine miles or more to the north, with the south shore of Lake Maloney about eight miles distant to the northeast. Fremont Slough along the south margin of the South Platte River Valley, is about 13 miles to the north. The headwaters of Red Willow Creek are about 10 miles southwest of the N-CORPE acres. Nebraska streams mostly represent discharge from our aquifer system, they discharge around 9,000,000 acre-feet per yer from Nebraska. Streams flowing into Nebraska count for less than 2,000,000 acre-feet of water. The water represents discharge from upstream states and discharge from Nebraska's well except in a few select areas where our streams lose water to the ground. Almost 8,000,000 acre-feet of water recharge our aquifer each

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year. Sources of recharge include percolation of precipitation through the unsaturated zone and stream and canal seepage. Seepage and percolation are recharge, stream flow is discharge, and ground water is storage. Storage is constantly replenished by recharge and diminished by discharge, so while the total volume stored can remain constant, storage water is in constant motion from its point of recharge to its point of discharge. When we pump a ground water well, we remove storage, effectively creating a new point of discharge. Removing storage immediately reduces the volume of water in that storage and over a time, reduces the amount of natural discharge by an amount approximately equal to the amount pumped. These reductions are often called depletions. If the well is close to the natural discharge or the stream, then the reductions to natural discharge occur faster, and if they're further away, they occur slower. Stream flow diversion by canals immediately removes water from stream discharge and does not immediately affect ground water storage. Since the stream stage is reduced during the diversion, over time, the diversion can increase the natural discharge of ground water in the reach below the diversion. This effect is compounded by any water that's lost from the canal to the ground water. Lost canal water is added recharge, and new storage which will eventually add to our discharge. Pumping ground water into a stream creates the immediate storage reduction and the eventual discharge reduction, while adding water to system discharge immediately. Since the stream stage may be raised, the natural discharge to the reach may be reduced during times when the stage is elevated, but should return to normal when the stage returns to normal, provided the channel is not significantly altered. Effects that physically alter the stream channel, like floods, or earthworks, may complicate the relationships I described today. That concludes my testimony. [LR323]

SENATOR SCHILZ: Thank you, Mr. Hallum. Any questions? [LR323]

SENATOR GROENE: Just one quick question. [LR323]

SENATOR SCHILZ: Senator Groene. [LR323]

SENATOR GROENE: How many inches a year does it naturally recharge? [LR323]

DOUGLAS HALLUM: I'm not sure the conversion from acre-feet to inches. I can look it up for you. [LR323]

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SENATOR GROENE: That's fine. [LR323]

SENATOR SCHILZ: Thank you, Senator. Any other questions? Seeing none, thank you for your testimony. [LR323]

DOUGLAS HALLUM: Thank you. [LR323]

SENATOR SCHILZ: Did you have a green sheet? Make sure that you get (inaudible). Next testifier will be Aaron Thompson, from the Nebraska-Kansas Area Office of the United States Bureau of Reclamation. Good afternoon and welcome. [LR323]

AARON THOMPSON: (Exhibit 2) Thank you. Good afternoon, Senators, and thank you for the opportunity to present a statement to you today. My name is Aaron Thompson, A-a-r-o-n T-h-o-m-p-s-o-n. I am the area manager for the Bureau of Reclamation's Nebraska-Kansas Area Office located in McCook, Nebraska. Reclamation is interested in LR323, because it has the potential to better protect the water supply of the federal irrigation projects located throughout the western half of Nebraska. Reclamation is the water right holder for the storage in Enders Reservoir, Swanson, Hugh Butler, Harry Strunk, and Harlan County Lakes, located in southwest Nebraska. The federal projects provide supplemental irrigation water to Nebraska water users. Reclamation remains concerned that the long-term surface water supplies in the basin are continuing to decline in the natural resource district for failing to take action required by their Integrated Management Plans to protect surface water supplies. Augmentation plans are a compliance tool to offset overconsumption of ground water pumping. Put simply, fixing a ground water pumping problem by pumping more ground water. However, we cannot ignore the physical and legal reality that ground water and surface water are hydrologically connected and the long-term effects that augmentation pumping will have on stream flows. In the Republican River Basin, ground water augmentation projects have been utilized since 2013 to offset ground water depletions and assist the state of Nebraska in meeting its obligations under the Republican River Compact. Nebraska will...has maintained compliance with the compact without curtailing ground water while surface water has been curtailed. Meanwhile, the NRDs in the basin will likely fail to comply with the required pumping standards written into their IMPs, that protects the future water supplies of the surface water rights in the basin. The current IMPs have a

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requirement to reduce pumping by 25 percent from the 1998-2002 baseline by 2015. Based on ground water pumping data from the 2011 through 2014, and estimated pumping for 2015, at least a couple of the NRDs in the basin will fail to honor its pumping commitments as required by the IMPs. I anxiously await the final pumping numbers for 2015. Essentially, ground water augmentation projects re-time ground water discharge that would otherwise be stream flow available to surface water users. To prevent future harm to surface water users, augmentation pumping should be included in the NRD's total pumping allocations. Excessive ground water pumping adversely impacts surface water supplies and harms surface water users, completely contrary to the statutory objectives of the IMPs. Without specific controls on total pumping volumes, augmentation pumping will exacerbate this issue. Again, thank you, committee members, for hearing me on this important issue. Reclamation expects the NRDs to honor its commitments and to develop plans that will protect future surface water supplies. The NRD's failure to take action to comply with their pumping standards increases the likelihood that surface water supplies will continue to decline in the future. I urge you to carefully consider the overall impacts augmentation projects will have on all water users and craft solutions that sustain a balance between surface water use and ground water use in the basin. Thank you for your time. [LR323]

SENATOR SCHILZ: Thank you, Mr. Thompson. Any questions? See none, thank you for your testimony. [LR323]

AARON THOMPSON: Thank you. [LR323]

SENATOR SCHILZ: Next person on the list is Brad Edgerton, Frenchman-Cambridge Irrigation District. Good afternoon. [LR323]

BRAD EDGERTON: (Exhibit 3) Good afternoon. Thank you, senators, for taking the time to come out here and listen to these issues. I'd like to thank Senator Groene for his leadership and bringing LR323. My name is Brad Edgerton, B-r-a-d E-d-g-e-r-t-o-n, and I'm the manager of Frenchman-Cambridge Irrigation District. It's important that we keep an open dialogue on the issues surrounding augmentation and the N-CORPE project. I've handed out some...my written testimony there, and I'll kind of skip through it, because there's a lot of background information

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that you can read for yourself. Frenchman-Cambridge is a federal project as Aaron Thompson alluded to in his testimony. We have contracts with the Bureau of Reclamation on three reservoirs that our water users get water from. So it's important for us that we don't overabuse the resource. N-CORPE is a creation of water users in an area that is pumping more inches than the basin can sustain. As a result, the aquifer and streams are drying up. With N-CORPE...what N-CORPE does is take ground water pumped from these wells and put water into the river in order to allow continued ground water pumping in the basin. The result is surface water flows are decreased, ground water levels are declining, and ground water irrigators can continue to irrigate unsustained and unrealistic allocations. This retiming project was built with one reason, Nebraska is consuming more virgin water allocation in the Republican Basin than we are entitled to use. Nebraska Revised Statutes Appendix 1-106, adopted by the Legislature in 1943, sets Nebraska's allocation within the Republican River sub-basin by sub-basin. Under Article IV, Nebraska is allocated 4,600 acre-feet on Medicine Creek, 42,000 acre-feet on Red Willow Creek and 52,800 acre-feet on Frenchman Creek drainage. However, in 2014, consumptive use of stream flow from ground water pumping alone exceeded 20,400 acre-feet in Medicine Creek Basin, 5 times what statutes allows, 6,400 acre-feet in Red Willow Basin, and 76,800 acre-feet in the Frenchman Creek Basin, over 40,000 acre-feet beyond what is allocated by statutes. With the adoption of LB 962 in 2004, Nebraska Legislature declared the Republican River Basin fully appropriated, not DNR. As you can see in these three sub-basin examples noted above, Republican River is substantially overdeveloped and should have an overappropriated declaration by the Department of Natural Resources. State statute currently does not allow for the Republican Basin to be scientifically examined to know the real extent of overdevelopment. Senator Lathrop attempted to correct the law with LB1074 in 2014, but was unsuccessful. The fact that we don't want to look at the problem or study it doesn't make the problem go away. The longer we wait to address the problem, the harder it will be to resolve. N-CORPE was conceived and built for compact compliance and for the benefit of ground water users, but the result is a total disregard for other water users within the basin. With N-CORPE, it's possible to dry up the river and tributaries west of Cambridge, Nebraska, and the Medicine Creek Confluence with the Republican River with no consequences. This is of particular concern to the Frenchman-Cambridge because three of the Frenchman-Cambridge diversions are located above this location, and 60 percent of our permitted acres will be negatively impacted by N-CORPE pumping. The water management scheme is not sustainable and we fear it takes Nebraska down

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a dangerous path. We are afraid that once the streams are dry, as a result of overpumping, augmentations will become a year round event with more and more water needed. We believe that there...the potential solution is to enforce the compliance...the pumping volume compliance standards within the IMP. This ensures that we don't overpump the basin west of Cambridge, and we may even need to look at these areas to see if those pumping standards are stringent enough. So...we are hopeful with new leadership in Lincoln, that Nebraska will honor the promises made to the United State Supreme Court and all the water users in the Republican River Basin will be treated fairly and have an equitable portion of Nebraska's Compact Allocation. Just as important as conversation like the one taking place today, irrigators in the basin need to know who is watching the amount of water being pumped as a result of N-CORPE, who is keeping track of the long-term effect, who is responsible for compliance, and where irrigators can go to have a voice in long-term solutions, to ensure that the next generation and the generation after that can irrigate and produce a crop and keep their communities viable. I thank you for the opportunity and I'll take any questions now, if you have any. [LR323]

SENATOR SCHILZ: Thank you, Brad. Any questions? Seeing none, thank you for your testimony. Appreciate that. And now we will have Mr. Joe Knox, please. [LR323]

JOE KNOX: My name is Joe Knox, J-o-e K-n-o-x. I'm here to talk about Wellfleet Lake and Medicine Creek. I grew up below the dam at Wellfleet Lake and my concern was...before this water project started, was the erosion and the silt landing in our little lake. It's a small lake that the community uses, and it seems to me they are using it as a silt catcher from the water project, because the banks are caving back on the creek and all that. Dirt has to stop somewhere. So that's basically all I had. [LR323]

SENATOR SCHILZ: Thank you, sir. Any questions? See none. Have you...has...the city of Wellfleet owns that? [LR323]

JOE KNOX: The Wellfleet Community Club leases the school land, is what it sets on. And we try to keep it up the best we can. We have donation only, is how we survive. Yes, so... [LR323]

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SENATOR SCHILZ: Has there been any discussions with NRDs or the N-CORPE project folks, themselves, to discuss mitigation or ways to fix that so that you're not... [LR323]

JOE KNOX: We had a meeting with the Game and Parks...the state school land representative, me for the Community Club, and the engineer that had designed a shoo-fly to go around our normal spillway that would alleviate the danger of the extra water going in there...taking our dam out. But they were...N-CORPE was basically there to see if anybody had any money to help them build the shoo-fly with, which we wouldn't need if it wasn't for this project. [LR323]

SENATOR SCHILZ: Thank you, sir. Any other questions? Seeing none, thank you for your testimony. Appreciate it. [LR323]

JOE KNOX: Thank you. [LR323]

SENATOR SCHILZ: Kurt Pieper? [LR323]

_____: Senator? None of the (inaudible) can hear anything out here. [LR323]

SENATOR SCHILZ: Ma'am, as I mentioned before, we're doing the best we can. This is the limit of the amount of stuff that we have available. Like I assured you before, the committee can hear everything that's being spoken about. If everybody out there can't hear, we can all try to talk louder, but this is about all we can do. [LR323]

SENATOR WILLIAMS: There's lots of seats up here, too, if you want to move down and sit up closer. [LR323]

SENATOR SCHILZ: Right. There's plenty of seats up...if you want to. But I'll tell you, we can't hold up the hearings until we find something for everybody to hear, so we will try to speak a little louder. Thank you. Sir, go ahead. [LR323]

KURT PIEPER: Good afternoon, my name is Kurt Pieper, K-u-r-t P-i-e-p-e-r. I'm a landowner in Lincoln County, Nebraska. I own property that is adjacent to the N-CORPE project. I have

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property in both the Middle Republican NRD and the Twin Platte NRD. I have a farm management business that manages property just to the north of the N-CORPE project. Prior to the N-CORPE project, the Middle Republican NRD put a moratorium on new wells and on pumping restrictions on the amount of water that can be pumped. No one liked the restrictions, but at the time, I knew something had to be done, and this appeared to be a move that would help alleviate some of the problems the state was in. At the time, the Middle Republican NRDs said that the whole district had to be treated the same, meaning that although we were farming on sandy ground, sitting above a very good part of the aquifer that has a saturated thickness over 400 feet, we had the same restrictions as property that had soil with better water holding capacities, but were over a part of the aquifer that does not have the same reserves. Then, all of a sudden, N-CORPE was born. We were told that this project would relieve the problems of hard caps in the Middle Republican NRD. It would retire irrigated acres that would help us get in compliance with the Republican River Compact that the state entered into. We would have a maximum occupation tax of \$10 an acre, and the 4 NRDs would share in the expense. It appears to me that the N-CORPE project is creating an overburden on the properties adjoining the N-CORPE project; 45 to 50 acre-inches were pumped on the project over a 9-month period. The farmers in that same area were a hundred: a hard cap of pumping of 12 acre-inches in the growing season. With that, I can only attribute the N-CORPE's pumping we saw a reduction in water levels in the surrounding wells. The farms to the north of the N-CORPE have spring water levels that are 20 foot lower than the August levels in 1990: 1989-1990s were low rainfall years for our area. We did not see these reductions when N-CORPE was in crop production. I was told N-CORPE lowered their pumps 60 feet because they had over a 20-foot pumping level reduction. As a landowner next to the project, I feel I am paying an unfair cost for this project. I'm being allocated on irrigation water, which is very burdensome for this area, and results in less income from my irrigated acres. We're paying an occupation tax of \$10 an acre, with a talk of going to \$15 for acre, all for the privilege of having our pumping levels lowered. Lincoln County is burdened with the loss of revenue of 19,500 acres, of which 15,800 were under irrigation. The N-CORPE project, which was designed to help meet the flow requirements of the state...each of the four NRDs were to have equal share in the project. It appears to me that the project is being funded heavily by neighboring landowners and Lincoln County. I'm not against the N-CORPE project. I don't like it, but I do have...I don't have a better solution to the problem than the state has. I'm against the area being burdened with solving the problem that should be funded by the

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state, or at least equally by the four districts. Having water allocation we need to abide by, while the project can pump the water they feel adequate to resolve the problems with the result of lowering pumping levels on area farms. I would like to see transparency in this project. When we asked about the project, we were bounced back and forth from the NRDs and the N-CORPE board. The occupation tax should not be used to build or maintain hiking trails or a hunting resort for the state of Nebraska. This ground should be sold and put in the hands of producers and therefore put back on the tax rolls. This can be done with the N-CORPE retaining the water rights, along with the same restrictions that the NRD placed on the producers, and protecting our ground water levels. Other states in our country are holding on to their water supplies at all cost. We seem to be sending our water to Kansas at a very high, inefficient cost. I also want to say, I am for leaving the control in the local NRDs. I think they do a good job, it's just collectively it seems to me like they have no control or no input from the N-CORPE project itself. Thank you. [LR323]

SENATOR SCHILZ: Thank you, sir. Any questions? I guess I would have one...it kind of goes back to the one that I asked Mr. Knox. Has there been any discussions with the N-CORPE folks, or with any of the NRDs about trying to find mitigation for...if those wells are actually losing capacity? Has any of that discussion happened? [LR323]

KURT PIEPER: So I think they are mitigating...or trying to mitigate fairly, I know they helped one producer lower his wells, but it's still the tax consequences and lower of our resources which are under our ground. Rather than mitigate the loss, I'd rather just soon have...you know, my water. I don't want to keep pumping it down and down and have them just setting the wells lower. Does that answer your question? [LR323]

SENATOR SCHILZ: Yeah, it does, yes. Thank you. Any other questions? [LR323]

SENATOR DAVIS: Senator Schilz? [LR323]

SENATOR SCHILZ: Of course, Senator Davis. [LR323]

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SENATOR DAVIS: Thank you. Sir, so let me ask you a different question. Is there any connection between the value of a piece of property and the water table? So if the water table is 100 foot down from neighboring property, would that value be less on that property because of the pumping cost? [LR323]

KURT PIEPER: Absolutely. It adds to our pumping cost and therefore has to have a less effect on the value of the land. [LR323]

SENATOR DAVIS: So over time, would you say if overpumping continues, that the value of your farm will go down in value then, because the cost of irrigating are going to be more excessive? [LR323]

KURT PIEPER: Yes, if overpumping occurs and our water table lowers, yes. [LR323]

SENATOR DAVIS: And so on the N-CORPE project, is there a cover crop? [LR323]

KURT PIEPER: Yes. I...yeah. [LR323]

SENATOR DAVIS: And is that a consumptive use of water, also? [LR323]

KURT PIEPER: That is a...yes. In fact, there's good research by western Nebraska...and I can't remember the project. But actually, you could say that ground is using more water than what our irrigated crops do, because it uses it more months out of the year than what our irrigated crops...in other words, if it rains in April, when we have no crops planted, that is going to use water. In November, when our crops are harvested, that crop is still using water. So I believe what they say in that that actually is a more consumptive use than the ground was when it was under irrigation. Also, when we pump irrigation water, that filters back down through the ground water...it's not...now we're pumping it and taking it clear off-site to Kansas. And that's going to deplete it faster than if even they were growing crops on there...which they never did pump 45 acre-inches, but if they would have, it still wouldn't be at the depletion rate that it is when you pump it and move it off the property. [LR323]

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SENATOR DAVIS: And I think I heard you say this, I just want to be sure that the water table today is sometimes 20 foot below what it was in the 1989-1990 drop period. Is that what... (inaudible)? [LR323]

KURT PIEPER: So the...my neighboring...the farm that I manage was...those levels were taken. It's owned by a certified well driller. And in August of 1990, they measured them, and they measured them in April of this year, and we are 20 foot lower on an average...don't hold me to 21, 22, and some might be less than what they were in August of 1990, yes, sir. [LR323]

SENATOR DAVIS: Thank you. [LR323]

SENATOR SCHILZ: Thank you, Senator Davis. Any other questions? Seeing none, thank you for your testimony, sir. [LR323]

KURT PIEPER: Thank you. [LR323]

SENATOR SCHILZ: Appreciate it. We will move on to Dan Estermann. Thank you, sir. And if I could encourage you to get as close as you can to the mic without making it look crazy. And speak up. [LR323]

DAN ESTERMANN: (Exhibit 4) My name is Dan Estermann, D-a-n E-s-t-e-r-m-a-n-n. I'm a third generation rancher on Medicine Creek in southern Lincoln County. My family has owned this ranch since 1919, and we've raised purebred Herefords here since 1938. We sell range bulls at private treaty across Nebraska and all surrounding states, as well as Oklahoma, Texas, New Mexico, and North Dakota. The subirrigated meadows and the adjoining bench land along Medicine Creek produce native hay and alfalfa that allows for year-round feed for our purebred herd. We don't have any irrigation. If my cattle get out in a farmer's cornfield, they're not very happy with me. When their water gets out in my hayfield, I'm not very happy with them. This project, in one year has already deposited sand and silt, changed the makeup and quality of grass, killed black walnut trees, and moved and altered and enlarged the creek bed. This project pumping 60,000 acre-feet annually means that a volume of water, equal to 20.75 feet wide by 4 feet deep, moving forward at 1 foot per second must cross my ranch. It is a volume of water

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equal to 164 acres 1 foot deep each day, all going down a creek that at the upper end of my ranch, usually would fit into a plow furrow. This is by far the largest flood ever seen on Medicine Creek in my father's 91 years. Most rainfall events recede within two or three days, this one lasted a year. At the outset, we were told that N-CORPE would only pump as much as the farm consumed. One of the managers told me they'd only pump in the winter time, and we wouldn't even notice it. I've attended N-CORPE and Middle Republican NRD meetings regularly since this project's beginning in 2012. In the fall of 2013, they mentioned fleetingly trading some N-CORPE land that wasn't yet seeded to grass. No mention of how much or specifically where, but why would I want to trade subirrigated meadow for a blowout? At another time, they mentioned three years of hay. Why would I trade 30 years of hay production for 3? Finally, in early December of 2013, someone called and without talking to me or leaving a callback number, said they'd be changing our culverts in the next couple of weeks. I sent an email to Nate Jenkins at the Upper Republican NRD that I thought they needed a contract for that. The week before Christmas, myself, and other landowners down Medicine Creek attended yet another N-CORPE board meeting, as N-CORPE was saying they intended to run water by the end of December. All of the landowners wanted to know what was going on. My lawyer assured me that N-CORPE would have to get their ducks in a row before they did anything to us. I asked what should I do if they try to change our culverts without a contract, and he directed me to call the sheriff, and then call him. When N-CORPE was delivering culverts to my neighbor without any agreement, I called the sheriff. Later that morning the sheriff read the license agreement we'd been told to sign and send back, and said it looked like a little kid had written it, certainly not a lawyer. I told the N-CORPE manager not to come onto my place, and not to turn the water on, from that now on, he could talk to my attorney. A neighbor told me that manager said that since I didn't readily sign an agreement, that they would just turn the water on and flood my culverts out. They proceeded to do that, putting several acres of land underwater in the process, and interrupting access to parts of my ranch. My neighbor had given me the heads up, so I had already moved the cattle out. Landowner rights meant nothing to the project managers. I was told in a blunt manner that the NRDs could come onto my property whenever and wherever they wanted. I believed they had to follow the statutes, that they would have to get several permits from DNR, Lincoln County, the NRDs, and the state of Kansas. In the meantime, I bought hay for the first time in my life, last spring, to ensure I'd have enough to make it to grass time. I've been...while N-CORPE killed off my black walnut trees with flood waters, they planted trees on their farm using

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a Wallace District fire wagon, even as they challenged paying taxes. I've been treated badly, but the farmers that pay for this project have been treated poorly too. Under threat of three inches of allocation, farmers went along with the project. We've heard reports that Landon Shaw, hydrologist at Twin Platte, made predictions about pumping...I guess I'm supposed to stop here. [LR323]

SENATOR SCHILZ: Okay, thank you. Any questions for... [LR323]

SENATOR GROENE: Yes. Over here, Ken. [LR323]

SENATOR SCHILZ: Senator Groene. [LR323]

SENATOR GROENE: Dan, could you finish that last statement you were going to make about Landon Shaw? [LR323]

DAN ESTERMANN: We've heard reports that Landon Shaw, hydrologist at Twin Platte NRD, made predictions about pumping on the Wellfleet Aquifer, but at the N-CORPE meeting where those predictions were on the agenda, the board instead decided to discuss that out of the public view in executive session. I told the board I thought that was public information, paid for with public funds. That it would be an illegal use of executive session. I don't believe Mr. Shaw's predictions have ever been made public, but at some point, the board seems to have discussed them, as one N-CORPE board member said in one meeting "we pumped the crap out of that well field." [LR323]

SENATOR GROENE: Thank you. [LR323]

SENATOR SCHILZ: Senator Hughes. Hold on, Mr. Estermann. [LR323]

SENATOR HUGHES: How many acres are...were in this hay meadow that you lost, according to the pumping? [LR323]

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DAN ESTERMANN: It isn't...it was figured about 27 acres, but it runs through the heart of the ranch and is over 10 percent of our crop production. [LR323]

SENATOR HUGHES: Was there live water in the creek before this pumping? Through your ranch. [LR323]

DAN ESTERMANN: At times. At times. [LR323]

SENATOR HUGHES: Okay. What would the value be of this hay meadow, and were you compensated for that? [LR323]

DAN ESTERMANN: Because the NRDs used eminent domain, and I'm in a lawsuit over the legalness (sic) of that eminent domain, any compensation is stuck at the courthouse. I can't touch it. [LR323]

SENATOR HUGHES: Did any of the other landowners along the creek have their land condemned by eminent domain? [LR323]

DAN ESTERMANN: No, I was the only one. And I was the only vocal opponent, I think. There were other opponents, but I was the most vocal. [LR323]

SENATOR HUGHES: Okay. Thank you, that's all. [LR323]

SENATOR SCHILZ: Thank you. Senator Davis. [LR323]

SENATOR DAVIS: Thank you, Senator Schilz. So when you had that volume of water that started to come down through your property, which was unusual, did you end up with cutting in your meadow? [LR323]

DAN ESTERMANN: Yes. [LR323]

SENATOR DAVIS: And so has that damaged the value of that meadow also? [LR323]

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DAN ESTERMANN: Permanently. [LR323]

SENATOR DAVIS: I mean, have you gone from subirrigated to second bench type meadow?
[LR323]

DAN ESTERMANN: The...on the lower end, it left...it cut and it deposited both ways, and it was creating new creek channels. And in some places, the NRD, you know, they threw up a berm, but that creates a problem, because rainwater can't get into the creek then. [LR323]

SENATOR DAVIS: So they threw up a berm to protect your meadow, or why did they put the berm in? [LR323]

DAN ESTERMANN: Yeah, for about, I don't know, 200 feet. I have 6,000 feet of creek meadow...creek going through the place. [LR323]

SENATOR DAVIS: So how much did it cut then when it did that? Do you have any kind of idea?
[LR323]

DAN ESTERMANN: Well, in different places it was different. We had a tendency to mow up to one side of the creek in a lot of places, and the other side would be cattails. The water runs faster across the mowed ground, and the silt was deposited in the cattails. And it was cutting down, actually, on the hay meadow portion. [LR323]

SENATOR DAVIS: Thank you. [LR323]

SENATOR SCHILZ: Thank you, Senator Davis. Any other questions? No. Thank you, sir, for your testimony. [LR323]

DAN ESTERMANN: Thank you. [LR323]

SENATOR SCHILZ: This time, James Uerling. Good afternoon. [LR323]

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JAMES UERLING: (Exhibit 5 and 6) Thank you. Okay, my name is James Uerling, J-a-m-e-s U-e-r-l-i-n-g. Senator Groene, and members of the Nebraska Legislature, thank you for allowing me to testify at this special public hearing. I am a director of the Middle Republican NRD. I was present when the Middle Republican was given 45 minutes to move forward with the N-CORPE project, and I was one of 2 directors to vote no. Once again, I voted no. I won't repeat the others' testimony. I have the letters from the Department of Natural Resources, the documentation to verify their testimony. I actually put together a PowerPoint demonstration with 15 photos documenting the erosion caused by N-CORPE pumping. I called it: Stream Bank Erosion Upstream of Wellfleet Reservoir. And I presented this at the May 2015 MRNRD meeting...Middle Republican meeting, and the June 2015 N-CORPE meeting. And I'm going to freelance here for just a minute. I was talking to a water expert from Nebraska, and Dan Estermann just before me was asked a question about what the creek was doing. And the water expert explained to me that the creek is doing what the creek has to do. It is transforming its...there's 80 cubic feet per second of water flowing from the N-CORPE project. That creek is in the process of transforming itself into a creek that can carry 80,000 acre-feet. Now up at Dan Estermann's property, you can hop across it before the project started flowing, you can jump across it with a big step. You can't do that with 80 CFS flowing. What it's doing is: it's attempting to slow itself down and in doing so, it becomes more meandering, and it erodes the dirt off of one side of the bank and deposits it on the other. And that's what it's doing, it's transforming itself into a waterway that can carry 80 CFS, and it's doing a lot of damage along the way. And I have photographs here that I'll give to your secretary here. Okay, back to what I have written here. In my opinion, N-CORPE has created more problems than it's solved, and only accelerated the use of Nebraska's finite water supply. I would like...in the end of this, I will offer a partial solution, but first, a little bit of history. The state of Nebraska signed the Three-State Compact with Kansas and Colorado in 1943, and the Final Settlement Stipulation in 2002. The state, through their DNR, have signed agreements called Integrated Management Plans with the NRDs, and is dependent on the NRDs to set pumping allocations in order to stay within Nebraska's allocation of depletions. Kansas had to sue Nebraska twice, the 1998 lawsuit resulted in the FSS, the Final Settlement Stipulation, and Kansas sued again in 2009. And in late 2012 during testimony with federal judge William Kayatta at Portland, Maine, director of DNR Brian Dunnigan, DNR's James Schneider, and all three managers of the Republican River NRDs, gave testimony stating that the IMPs were new, that they needed to be given time to work, and that the

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IMPs would keep Nebraska in compliance with the Three-State Compact. Nebraska received a favorable ruling from William Kayatta, partially based upon this testimony. The state of Nebraska spent millions of dollars on attorney's fees, defending Nebraska during these two lawsuits. Judge William Kayatta rewarded Kansas with \$5.5 million of damages. Nebraska may have claimed victory in the press after Kayatta's ruling, but the costs have been substantial. The DNR only controls surface water, you probably know that, the NRDs control ground water, and the DNR has very little leverage to force the NRDs to comply with their IMPs. They have written letters and have provided mathematical information, but probably don't have the legal authority to do anything more. So we have a disconnect here, if that makes any sense. I believe that all augmentation pumping should be included with the perspective NRD's pumping standard. For example, the Middle Republican, my NRD, has a pumping standard of 247,588 acre-feet, and let's say in 2016, the Middle Republican pumps 25,000 acre-feet from the N-CORPE project to make up for their extra depletions. Then I believe that the Middle Republican irrigators will only have 225,580 acre-feet to pump, and I believe that we should adjust the allocations to the irrigators accordingly. I believe that pumping from the project should be reduced from this perspective NRD's pumping standard. The NRDs have not adjusted ground water allocations in an attempt to follow the pumping standard written in their IMP, and that has placed the state of Nebraska in a vulnerable position, leaving the state open to more lawsuits from Kansas. In 2013, the Middle Republican did attempt to...we actually lowered our allocation to 10.8 inches. And we expected...we were attempting to follow the IMPs, and we expected the other Republican River Basin NRDs to go along. We took a leadership role, so to speak. They did not. Okay, ultimately, the Nebraska State Legislature controls the waters of Nebraska. In order to prevent further lawsuits and more money wasted on augmentation projects, I suggest that the Nebraska State Legislature commission the Natural Resources Committee to be the oversight body over the NRDs. I suggest that the NRDs have the IMP...that have an IMP, I'm sorry, let me start over. I suggest that the NRDs that have an IMP report annually to this committee on their compliance with their IMPs, and that plans and projects of this nature, I'm talking about N-CORPE, have approval from the State Legislature. Thank you. [LR323]

SENATOR SCHILZ: Thank you, sir. Any questions? See none, and for ten minutes, you want to leave that... [LR323]

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JAMES UERLING: I will. And I also have a letter here, but I have discussion about...I'll leave this too. [LR323]

SENATOR SCHILZ: Okay, thank you very much. Next person, Mr. Ben Miller. Mr. Miller...there he is. Good afternoon. [LR323]

BEN MILLER: Good afternoon. Senators, thank you for coming out and hearing our issues at hand. Name is Ben Miller, B-e-n M-i-l-l-e-r. I manage farm ground for North Platte Livestock Feeders which is south of town about 22 miles, straight east of the augmentation project. Understanding that the Natural Resource District is here to protect our natural resources, 2007, the current owners of North Platte Livestock Feeders bought this ground and we had everything pumped, tested, and wells redone in 2009. Here we are a few years later with the understanding that when we do these wells, they're good for 20-25 years. We average pumping about 10.5 inches a year of water. In 2012, when we had a drought, we pumped upwards towards 18-20 inches. We've lost pressure on over eight of our wells this summer: in June were running 20 psi less on our pivots in June, which we normally don't see any drop in our pivots. We had to drop one well this spring, and we're in the process, as we speak, of dropping another one. This whole project was kind of shoved on us, we're paying an occupation tax, plus we've got an increase in cost now, of redoing wells that we just did just a few years ago. For your information it costs just approximately about \$20,000 to do any well work at all, on top of a \$10 occupation tax. My question, and I'm going to leave with this is why do we have a road...South Platte River frontage road that washed out with the flood, an Army Corps of Engineers that's held up getting a road fixed because of all the studies that have to happen, and stream flows...why did we not have a study done on this project already? We spent all this money, and now we're going to study the project? We're eight miles away from this, and they say that our pumping has an effect on these streams, but we were told at these board meetings that we would not have any effect on us. How is that possible? I'll leave it with that. [LR323]

SENATOR SCHILZ: Any questions? Seeing none, thank you, sir, for your testimony. Mr. Tom Sandberg. Good afternoon. [LR323]

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TOM SANDBERG: (Exhibit 7) Good afternoon. I'm Tom Sandberg, I'm superintendent of the school in Wallace, T-o-m S-a-n-d-b-e-r-g. You're going to see a handout later, when they pass it out, and on that there are a number of...it's more or less a chart talking about values, revenue, levies, and that sort of thing. The chart below shows the financial impact that the N-CORPE project has had on the Wallace School District. The loss of revenue due to the change in ag land value from irrigated to grassland does not keep the Wallace School from conducting its business, as we are not close to the \$1.05 levy limitation, at least not at this time. But the N-CORPE project forces the remainder of the school district to pay an increased rate to cover the revenue loss. According to what I have read, the N-CORPE project was designed to keep local ag producers from having to shut down their irrigation to satisfy the water required by Kansas. So if the N-CORPE project performs as intended, ag land owners in the Wallace District would benefit. However, ag land makes up 72 percent of the total value of the school district in Lincoln County, which leaves 28 percent paying an increased rate for a project for which they had no say. N-CORPE is appealing the refusal of the Lincoln County assessor to remove their property from the tax roll. Their appeal is due to be heard by the TERC in October. An April 20, 2015, article in the North Platte Bulletin says that N-CORPE is appealing the second half of the 2014 taxes and all of the 2015-2016 taxes. On this little chart, I've got four years. The first year listed is 2013-2014, that would have been the last year that the N-CORPE property was valued at irrigated, so that was basically the baseline. So the value in 2013-2014 for the N-CORPE property is \$30,517,000, our total levy for all funds that year was 67 cents, total revenue generated from the N-CORPE property is \$206,000. In 2014-2015, the ag land value got dropped to grassland, that produced a total value of \$7,190,000 at our 64 cent levy, that produced \$46,000 of tax funds from that ground, which would be \$159,000 loss from the previous year. The amount of the levy required to make up for that loss is about 3.5 cents. 2015-2016, a little bit of an increase in values, so the grassland value is \$8,700,000, our levy this year is 58 cents, the total revenue generated by that \$8,000,000 is \$51,000. Compared back to 2013-2014, that's \$154,000 loss. This year, it's about 2.8 cents to make up the difference for what we lost. Now, 2016-2017, if they win at TERC, obviously there's no value, and we'd be right back to the total loss of \$206,000. Keep in mind that these three years, I'm not using any kind of a value increase, there's no counting for inflation rate there, for those values. If N-CORPE wins at the TERC, we would have to pay back about \$23,000 for 2014-2015, and about \$51,000 for 2015-2016. Now I was not working at Axtell when the N-CORPE project was developed, but I heard the N-CORPE's

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early position was to take care of the Wallace School District. Since the N-CORPE project solves a problem that Nebraska has with Kansas regarding water, it would seem to me that the state of Nebraska could find a solution to make up for this revenue loss at the Wallace School District, so that our school district taxpayers don't have to make up that difference. Thank you. [LR323]

SENATOR SCHILZ: Thank you, sir. Any questions? Senator Hughes. [LR323]

SENATOR HUGHES: Tom, thanks for coming today. [LR323]

TOM SANDBERG: Thank you. [LR323]

SENATOR HUGHES: Have you done any kind of calculation as to what the loss to the Wallace School District would be had N-CORPE not been implemented and large tract or large volume of irrigated land have been lost? [LR323]

TOM SANDBERG: Well, had that all been valued at irrigation, I think we'd be right back to that 2013-2014 valuation base. [LR323]

SENATOR HUGHES: If the irrigated acres had been shut down, because N-CORPE did not come to pass? [LR323]

TOM SANDBERG: Oh, if they had been shut down? That I don't know. [LR323]

SENATOR HUGHES: Okay, thank you. [LR323]

SENATOR SCHILZ: Thank you, Senator Hughes. Mr. Sandberg, have you talked about finding some ways to make up some of that? Has there been any discussions that have gone on about ideas on how to do that, or has any of that initiative taken place? (Inaudible) discussions on it. [LR323]

TOM SANDBERG: I don't think there's been any discussions other than in my head, but the feds do this. They provide impact aid. Bellevue Public Schools gets a lot for their Air Force base.

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Alma gets some for, you know, Harlan County Reservoir. So...I mean, it's a system. It works at that level...there could be other ways, but that would be a possibility. [LR323]

SENATOR SCHILZ: I appreciate this. Thank you, sir. Any other questions? Seeing none, thank you for your testimony. [LR323]

TOM SANDBERG: Thank you. [LR323]

SENATOR SCHILZ: Okay, we will move on to Mr. Bob Peterson. [LR323]

BOB PETERSON: Senators, Mr. Chairman Schilz, thank you for having this hearing. Basically, the only thing I want to talk about is transparency with the N-CORPE board. I've been attending their meetings since January. They got a new manager in early...in April, I believe. He was unable to get the notice of the minute meetings in the May or June paper. I confronted him with that, and he guaranteed me that they were in there, they weren't. They miraculously...the next meeting, in July, it was in the paper. In August, he had the same problem of not being able to get the meeting minutes put in the local paper, so they had to postpone the meeting to the 2nd of September. At the 2nd of September meeting, the manager presented to the board members that it was too difficult to work with the print media in North Platte and McCook, but the print media in Hastings and Kearney were exceptional...he didn't have a problem with it. So he presented to the N-CORPE board that they change their bylaws, and there will be no more print media for meeting notices for N-CORPE. All of their meeting notices will be on the N-CORPE Web site, which can only be accessed in North Platte by the Twin Platte NRD Web site, then go to N-CORPE Web site. When you have a \$100,000,000 project that is taxpayer funded, and they can't seem to let people know of a public meeting...look at the individuals here today for this, there is a lot of concern for what's going on here. To restrict the ability for the taxpayers who are paying for this, by basically saying, oh, only if you've got a computer are we going to notify you of public meetings. I really think that violates the open meeting law, but their attorney, a Mr. Blankenau, I believe, advised them that it would work fine if they only use the Web site, and print media was not necessary. And so they also said that then they would have a list of the meeting agenda posted at each one of the NRDs, which really doesn't give you much information and trying to get it out to the public. And again, I'll just say for openness, transparency on a

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\$100,000,000 project, paid for by the taxpayers, what is the problem with spending \$40 a month to have it published in the newspapers so that everybody's aware of when these meetings are? Thank you very much for your time. [LR323]

SENATOR SCHILZ: Thank you, Mr. Peterson. Hold up a second. Any questions? You lucked out. Thank you for your testimony. [LR323]

BOB PETERSON: Oh, no problem. [LR323]

SENATOR SCHILZ: Now, finally, Mr. John Vanarsdall. Good afternoon, sir. [LR323]

JOHN VANARSDALL: (Exhibit 8) Thank you. And thank you, gentlemen, for allowing me the privilege of addressing you. My name is John Vanarsdall, J-o-h-n V-a-n-a-r-s-d-a-l-l. It's a good Dutch name. But nevertheless, I'm a fourth generation to call Lincoln County my home. All have been farmers. I've resided the same address since 1948. Which is...and the residence is halfway between Hershey and Sutherland on the north side of the North River. I've also been secretary/treasurer for Birdwood Irrigation District for over 20 years, and I've spent over 50 years of my life dealing with surface irrigation. I also am one of many who is paying for N-CORPE. I'm going to limit my comments. Basically, I'm a farmer, I've irrigated, and I understand how water flows, and so forth. But my comments are going to be practical and also philosophical. I've done my research from a practical viewpoint, but I have the specifics with regard to my testimony...I left to the clerk. Okay, as water...and my primary focus is going to be on evaporation. As water flows in...as it's transferred to Kansas, the first exposure is Medicine Creek, and then continuing to Cambridge. In consider...in trying to calculate the meandering, it covers a minimum of 70 miles. It doesn't go straight down...it's about 35 miles, it zig-zags...it meanders. So anyway, it's approximately 70 miles to Cambridge with the very minimum width of 25-foot. This was measured at...where the water comes out of it and goes under the highway at...where it first hits Medicine Creek, okay? As the water flows, it's approximately 20-foot wide. From Cambridge to the Republican River in Superior, where it enters Kansas, is another 115 miles. So if you consider the meander there, which isn't as great, but the width is much, much greater, you're looking at a total of 230 miles there; total them up, that's 300 miles. Also to be considered in the surface area, you're looking at Wellfleet Lake, Harry Strunk Reservoir, and Harlan County

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Reservoir for a total surface area of approximately 16,000 acres. Okay, according to the national geographical survey, the average annual rate of evaporation for this area is 3.93 feet per year. Therefore, a six-month loss of evaporation would be approximately 30,000 acre-feet, okay? You also need to consider moving water evaporates at a greater rate, also, the temperature factor in evaporation would be greater because the movement...or when the water is being delivered is during the warmer months, and all this is without consideration to seepage. Now this is...from my own experience with our irrigation ditch, we have 44 CFS, cubic feet per second, which would be about half of what N-CORPE is pumping, as I understand, which is 80. We have about that as our water right. We have 22 miles of ditch. We clean it every year, meticulously, the biggest share of it, anyway, we plow it out and it's clean. We have a hard time with 44 CFS getting to the two guys on the end of it, because of evaporation and seepage. And you're going to run it clear to Kansas? Come on now, that's ridiculous. Okay, one other point, and this is more philosophical, but N-CORPE considers water use for irrigation as being consumed. I think this is for public consumption, according to Webster, consumed means: used up, to destroy, or to waste. Every drop of irrigation water used in Lincoln County by December will be returned to the natural source to begin with, either through evaporation and rain somewhere, or else through recharge, every drop of it. You don't destroy water. There's not one less drop of water now, than there was 1,000 years ago on this earth. You don't destroy it. And water is one of the three primary things that are necessary for life. You have air and you have heat, the sun, and you have water. We spend billions of dollars sending satellites...probes to various planets and so forth to see if there could be life, and the first thing they check for is water. But what has happened, philosophically, is now N-CORPE, in particular, because that's what we're talking about today, has taken the position of rather than as our country was set up, to protect life and liberty, have taken the position of controlling life. If you control the elements that allow us to live, you control us directly, and that's what N-CORPE is. [LR323]

SENATOR SCHILZ: Sir, I...could you go ahead try to finish up your statement? Thank you.
[LR323]

JOHN VANARSDALL: Okay. Okay. Simply, in conclusion, N-CORPE is a perfect model of a destructive concept functioning in our state, our nation, and our world. And that concept is that man is in control of nature. N-CORPE produces nothing. It is a parasite in every aspect, a cancer,

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if you please. N-CORPE was conceived in ignorance and is fueled by arrogance. It must be abolished if we're to exist outside of a bureaucratic, totalitarian nightmare, and it's got to begin at the local level with these people. That's the only thing that's going to stop them. Okay, thank you. [LR323]

SENATOR SCHILZ: Thank you, sir. Any questions? Seeing none, thank you. [LR323]

JOHN VANARSDALL: Okay, thank you very much. [LR323]

SENATOR SCHILZ: And that will conclude our invited testimony. We will now go ahead and take care of anyone else who would like to come and testify, you're more than welcome to. And at this moment, I would advise everyone that it's now 2:30, just about, so we've got about an hour and a half left for testimonies. So...good afternoon. How are you? [LR323]

CLAUDE CAPPEL: (Exhibit 9) Good afternoon, my name is Claude Cappel, C-l-a-u-d-e C-a-p-p-e-l. Basically, I did not know you had to have copies...like..but can I give the copies to somebody? [LR323]

SENATOR SCHILZ: Yeah, just leave them with...committee clerk. [LR323]

CLAUDE CAPPEL: Okay, and I'll just have a few comments then. Basically, we farm in the Republican Basin, down there. We farm in...we have irrigation water in three irrigation districts: Frenchman Valley, H&RW, and Cambridge Irrigation District. [LR323]

SENATOR MCCOLLISTER: Can you speak up, please? [LR323]

CLAUDE CAPPEL: Basically, all of our land...we went to a lot of efficiency stuff. We went to about \$2,000,000 worth of drip tape in the last 2 years, and stuff like that. Last year, I just asked, and we used...or this year, here, we used 8.06 inches of water this year. Drip tape, taking the nozzles off the pivots, stuff like that has really helped us a lot. All of our nozzles are down into the crop cover, end guns are a terrible waste of water, you can see this...you see it blowing a long ways away. [LR323]

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SENATOR JOHN MCCOLLISTER: Sir, we can't here you down here. [LR323]

CLAUDE CAPPEL: Oh, I'm sorry. I'm sorry. Basically, we've done a lot of conserving, we've spent about \$2,000,000 on drip tape and then a lot of other stuff. This year, here, we had one...the wells are going down real fast. We're going to be out of water very soon, I can see that. I've seen it back in 1992, we had 1 water-short year, 2002, I think we had 5 or 6. Now we're in the 2012-2013, I don't know long this is going to go, and they keep pumping. We have...I and the rest of our people are going to file a suit against the NRD or DNR for loss of water in Frenchman Valley. Frenchman Valley has an 1894 water right. They did not give it away when the dams was built. They got it past...the dam will hold it and then they let loose. If we had the Frenchman Valley water, we wouldn't have to have a lot of this stuff we have put in to do stuff, and now we're going to lose that. So, basically, I guess that's about all I have to say. We'll leave a lot of information here on different things. I see the Upper Republican is going to spend \$2.5 million on a study to get more water somewhere. And everywhere has just gone dry, that's all there is to it. Thank you. [LR323]

SENATOR SCHILZ: Thank you, Mr. Cappel. Any questions? Seeing none, thank you for your testimony, today. Further testimony? Good afternoon. [LR323]

JULIE HAWKINS: Good afternoon, Senators. My name is Julie Hawkins. I come from Arthur County, I'm on the west side of Arthur County. If you were to take scissors and lob off the Panhandle of Nebraska, I would be right on that line. So anyway, I am a graduate of the University of Nebraska. I stopped short of having my master's by seven hours to marry my husband, and I became a rancher's wife. I love every minute of it. The things I don't love about it is in the last 13 years our land taxes have over doubled, that's a lot. And then we pay this occupation tax. We are a cow-calf to yearling operation, so we raise our own hay, and we feed it right back into our cattle. That \$2,200 a year is added taxes, and I have talked to my senators about the need to lower taxes, repeatedly. I'm highly disappointed. We need help. I didn't feel we were represented at all. I'm here today because a good friend of mine called me on the phone last night, and said, hey, do you know there's this hearing and I'm like, I guess I better change my plans tomorrow, and so I'm here. And I hope you guys listen to everybody that's testified, because they have real concerns. We got to get back to the reality. The reality is: agriculture

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feeds our nation, and we've got to support them. Somehow, we've got to help them with a better solution. I feel like if we're going to tax, the whole state as a whole needs to pay for it, not just agriculture. So I really hope we can come with a solution today and I thank you for time for listening to us. But that was the huge disappointment was that I had to hear it through the grapevine, that this hearing was happening because I feel every landowner should have been notified in letter saying we're having this hearing. I know you're paying this tax. So thank you for your time. [LR323]

SENATOR SCHILZ: Ms. Hawkins, hold on one second. Were there any questions? I do believe this was put out on the Web site the other day. I don't know if it was actually in the papers or not that the hearing was going on. [LR323]

JULIE HAWKINS: It was not on the local papers. [LR323]

SENATOR SCHILZ: When you say local papers, you're talking about you'd get the Lincoln County papers? [LR323]

JULIE HAWKINS: No, Arthur County. I didn't see any of that. [LR323]

SENATOR SCHILZ: Right. Okay, thank you. Any other questions? See none. Ms. Hawkins, thank you for your testimony. Further testimony? Good afternoon. [LR323]

SHAD STAMM: Good afternoon. Thanks, Committee, for taking the time to have this hearing, and to listen. My name is Shad Stamm, S-h-a-d S-t-a-m-m. I'm on...a school board member, have been since 2000, from the Dundy County Stratton School District. I'm also a farmer, rancher...small feedlot. I have a wife that's a school teacher, and I have two boys, one is 14 and one is 11, and one is a farmer through and through: today, I already know it. And I can say that in my district...I'm 43 years old, I feel old, but I am pretty young compared to a lot of people in my district. So all of this means a lot to me. I'm a man on the school board...I'm not speaking in terms of our school board, but I'm speaking in terms of myself, but education is also important to me. I guess the point one I have is...I know this is an N-CORPE project testimony, but we do have an augmentation project up in our NRD, and it's located in Dundy County. And as far as...I

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was glad to see Mr. Sandberg from Wallace, I've had a little discussion with him about it, but I was glad to see him verify some of the numbers, as far as the evaluation loss. Our property was revalued in 2014, and currently our assessor and commissioners are taking the stance that it's not for a public interest, and it's going before the TERC board in October...my understanding, so there will be a solution there. But Mr. Kent, our superintendent, and I have had some discussion, and we estimate we've probably lost \$60,000 to \$80,000, which would be about half of what Mr. Sandberg said Wallace...maybe half to...there's might be two and a half times our loss. But we've also verified...I know one of the questions up here by Senator Hughes was if they had a shut down. We have about 10,000 acres of alluvial or high-impact or whatever you want to call the fancy words for the lands...would be the easy fruit to shut down. And we estimate that if it was reduced, and this is a cowboy math, so don't get too carried away with it, but we estimate we would probably lose in the neighborhood of \$250,000 valuation if it was converted from irrigated to dryland. We're also paying an occupation tax of \$10 an acre up there. I heard a comment...I'm ad-libbing too because I've heard some comments. In our school district, in 2007-2008, we merged with Stratton, so we're about a county and a half school district, now. Our valuation at the time of merger in 2007-2008 was around \$375,000,000. This year it was certified at a little over \$993,000,000, so that goes to the fact of what property taxes. Obviously, we're not getting any state aid, and I would surmise we'd have to lose a considerable amount of valuation before we would get any state aid. So that answer to help solve our valuation problems, probably not going to happen without a lot of pain. I guess the other thing is I know more about the Rock Creek land versus the N-CORPE land, but I have had some discussion. I would say what I know of the Rock Creek land, it's fairly environmentally sensitive land to begin with, and so I have mixed emotions on whether it ever should have been farmed in the first place, and whether we ever should have had it as valuation in our counties in the first place. I have heard that somewhat of those comments about the Lincoln County land also, it's just, unfortunate in the state of Nebraska sometimes with that land, there's a tremendous amount of water underneath it. So I have mixed emotions on that. I guess in the end, what I would like to see happen...I've sat on some water task force and whatnot, and I don't anybody thinks that the augmentations are the end-all of end-all solutions. We've got technological advances that have happened since I came back. I heard something about drip tapes just a little bit ago. We use water probes and we have been, and I can tell you that...I'll use some more cowboy math, because I'm more cowboy than farmer, but I'm going to say we probably saved an inch to two and a half inches, just depending

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what you want with that. I mean, there's little things that can be done, and I agree with that. But I think the augmentation projects, they do cause pain, financially, for some taxpayers, but they also serve a purpose to bridge us until we get to those points of coming up with a better solution. So I guess what my end point would be, I would like to see maybe a more bulletproof solution. I don't believe, anyway, in the Upper Republican, there's any...from the discussions I've had, that they don't want to pay some sort of property tax relief or some compensation for what we've lost. But I think from their legal counsel, they're being told, and I would understand that, sitting on a school board, that...I'll wrap this up, but that it's for a public purpose, and that's what they're being advised. And they've got a potential lawsuit if they don't follow. So I would like to see something that would clarify it and make it a little easier for them from the legislative viewpoint, to I guess, make us whole again. And the thought I heard...a little bit about selling the land, I also understand I'm not a genius in that legal...but that there are some not so bulletproof things of keeping the water right and selling the land and whether that would stand up in court. So I also understand why they have been a little bit reluctant to sell the property. So with that, I guess I will end my testimony, and thank you for your time. [LR323]

SENATOR SCHILZ: Thank you, Mr. Stamm. Any questions? Seeing none, we appreciate your testimony. [LR323]

SHAD STAMM: Thank you. [LR323]

SENATOR SCHILZ: Next testifier. [LR323]

JON DAVIS: Good afternoon, Senators. My name is Jon Davis, J-o-n D-a-v-i-s. I'm superintendent at Alma Public Schools in Harlan County. I was asked to just speak about the impact that if our irrigated land in Harlan County would be shut down due to the wells being shut off, and I think it would have a significant impact on our valuation. Right now, we are at \$1.04 levy. We are no longer an equalized school district, as of this year. We've lost...we get about \$236,000 in state aid, mostly because of option enrollment, but in our levy we don't have any room to go. If we would lose our tax base, we would be looking at a significant impact on cutting back on staff and things. Our school district's been maintaining around 280-285 students over the years, and when we lose 10 students or 15 students, our costs don't change. If we gain

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15-20 students, our costs don't change, but a loss in our valuation would probably...could possibly close the school at some point down the road. The closest school to us is 17 miles, which is Southern Valley, and the other way it's Franklin, 22 miles. So it's not just easy to consolidate. But, you know, I've heard a lot of people testify today talking about this is a Nebraska problem. Well, it seems to me...and listening and talking to other people in our area, it's fallen on the Republican River Valley to solve the problem. And I think at least this situation may not be the end to all means, but it has solved the problem for right now, which keeping our land...you know, our valuation up there as best as I can, anyway. And I think something needs to be done. I think property tax needs to be also lowered, but at this point, you guys have been studying the school aid issue for a long time, as well as the property tax, and if it was easy, it would have been solved a long time ago. So I think it's the same thing with this. So with that, I'll end my testimony. Thank you. [LR323]

SENATOR SCHILZ: Thank you, sir. Any questions? Seeing none, thank you for your testimony. [LR323]

JON DAVIS: Thank you. [LR323]

SENATOR SCHILZ: Further testimony? Don't be afraid. Good afternoon, sir. [LR323]

DAVID HOGSETT: Good afternoon, Chairman Schilz, members of the resource...my name is David Hogsett, and I'm a county commissioner in Chase County, and a farmer. [LR323]

SENATOR SCHILZ: Sir, could you spell your name, please? [LR323]

DAVID HOGSETT: Oh. D-a-v-i-d H-o-g-s-e-t-t. For nearly 15 years, the state of Nebraska struggled to maintain compliance with the Republican River Compact. During that time the threat of noncompliance and regulatory claims that would need to be taken to maintain compliance loomed like a dark cloud over the area. How many acres would have to be shut down to stay in compliance? If we reduced the allocation by 60 percent immediately, how many farmers would be driven out of business? And if we couldn't stay in compliance, would Kansas get the permanent shutdown of 500,000 or so acres they sought in their recent lawsuit against

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Nebraska? N-CORPE has helped remove the cloud of uncertainty. It now helps guarantee we will be able to stay in compliance with the Compact moving forward. As a county commissioner, this certainty helps provide stabilize the tax base in Chase County. The assessed value of irrigated farmland in Chase County is approximately \$835,000,000. That is about 60 percent of the total assessed value of all real estate in the county. What would happen if we lacked, or would lose N-CORPE and the Rock Creek...because we're in the two of them, together...augmentation project in Dundy County? It's impossible to know for certain, but here is an educated guess: if we had to reduce the allocation immediately, to approximately six inches per acre, value on roughly three-quarters of the irrigated farmground in the county would be cut in half from the current \$3,983 to about \$2,000. The remaining one-quarter of the acres, which are primarily sandy, would be returned to dryland, because six inches is not enough water to raise a crop on dry...or on sandy ground. The values on that ground would decrease by more than 66 percent. The current difference between the average assessed value of irrigated ground, \$3,983, and the average assessed value of dryland at \$1,353 per acre, assuming those changes occurred, would be left with total irrigated land values of \$358,000,000, a reduction of 57 percent in irrigated land values. I'll skip part of this. The decline in the population by the reduction...I guess we don't know what, for sure it would be. The tax roll, because we have the infrastructure to support irrigated...you know, it would be devastating for a while. So that's basically what I've got to say. I would really encourage the state to keep the control in the local NRDs smaller, because there's so much difference in the state. I don't think...I don't know if this is part of a deal, but if you let the state control it, and use a whole cookie cutter kind of a rules, I don't know if it would work so well, because our state is so diversified. Anyway, that's all I've got to say. Thank you guys. [LR323]

SENATOR SCHILZ: Thank you, sir. Any questions? [LR323]

SENATOR GROENE: One. [LR323]

SENATOR SCHILZ: Senator Groene. [LR323]

SENATOR GROENE: Sir, if you want to keep local control in the local NRDs, shouldn't they be responsible for their own augmentation also? [LR323]

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DAVID HOGSETT: Yeah, and I kind of thought that's what we were working at here. [LR323]

SENATOR GROENE: Well, Lincoln County isn't part of the Upper Republican NRD. That is a concern we have. I understand the Rock Creek project was shut down...well not shut down, but shut off and everything was pulled out of Lincoln County, and that's a concern of a lot of folks that don't live in the Upper...which I have a lot of friends in the Upper Republican, but we have a problem. [LR323]

DAVID HOGSETT: We have a huge problem, and I...you know, I don't think there's a simple solution to this. And I guess I'm not 100 percent sold on augmentation, because it takes out of the pool, but do you got a better solution? Has anybody come up with a better solution as of yet today? I haven't heard of one. [LR323]

SENATOR GROENE: They had 30 years to do it, and they didn't do it. [LR323]

DAVID HOGSETT: That's right. [LR323]

SENATOR GROENE: They just sat on those NRD boards didn't do anything. Kicked the can down the road. [LR323]

DAVID HOGSETT: I know. [LR323]

SENATOR GROENE: Anyway. Maybe it's time somebody else does come up with a solution. [LR323]

DAVID HOGSETT: You know...how do you start it? Do you cut the allocation back? It seems like when they put a moratorium on drilling wells, there's always a lot of wells go in real fast. You take them out first? You know, I don't know. Do you penalize the guy that did it, or the guy that sold it, and leaves the new guy that's bought it trying to pay for it? It's just going to be ugly. [LR323]

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SENATOR GROENE: Well, I appreciate that you and a lot of people are saying this isn't the final answer, and I think that's what I was hoping this committee would hear: better answers. Thank you. [LR323]

DAVID HOGSETT: Thank you. [LR323]

SENATOR SCHILZ: Thank you. Any other questions? See none. Thank you for your testimony. Good afternoon. [LR323]

JOE HEWGLEY: Good afternoon, Senator Schilz...Chairman Schilz, I should say, members of the committee. My name is Joe Hewgley, J-o-e H-e-w-g-l-e-y, the current chairman of the Lincoln County Board of Commissioners, and I've served on that commission for 30 years. Couple points I'd like to make is when we first started talking with our local NRD, and the N-CORPE people, taxes were not going to be a problem because they were either going to pay the taxes or paying in lieu...that we're finding out that's not the case. Second point I'd like to make is public interest. To me, there's two different issues, there's the land, and there's the water. And I'm not sure that this body, the Legislature as a whole, isn't maybe going to have to help settle that question along with the courts. We do currently have an action against N-CORPE before the Tax Equalization and Review Commission. I'd heard...I believe it might have been Mr. Pieper...it may not have been, but one of the earlier testifiers talked about public use, whether you make that for public hunting or hiking trails. If it's truly public use, you don't have to find other little diversions so that it can, quote unquote, be public use. You know, as you're well aware, Lincoln County lost a significant number of irrigated acres that I...you know, that's something that's done, but I think...and Mr. Peterson also testified about the transparency. I'm not sure that all of their meetings were as transparent as they could be. And I did attend a number of those meetings in the first year or two, I haven't probably attended a meeting for maybe a year or more, but I would just ask you to look at the two issues. Perhaps...is it really a public use? I also think that Tri-State Compact was something that affected the state of Nebraska. I know the lawsuit wasn't filed against a specific entity or a specific county. It was the state of Nebraska, state of Colorado, when that first compact came, and the state of Kansas. So when the settlement came, I'm not sure that...I'm sure...I can't say that. I would think that the Legislature would be relieved at that time, that oh my goodness we have a solution out here, in the form of N-CORPE, and some local

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counties, they're taking the blunt (sic) of this. Not sure it should all fall on those local counties, and I'm not sure it should specifically fall on Lincoln County as hard as it has. I think Lincoln County has probably been hit harder than any other county to the best of my knowledge, and we're talking about a different...we're talking about our Twin Platte NRD, and the South Platte River. I mean, the South Platte River is not the Upper or Lower Republican. So I just think there's a lot of issues that really need to be looked at. I appreciate you for having the hearing out here, and I would answer any questions you might have. Thank you. [LR323]

SENATOR SCHILZ: Thank you, Mr. Hewgley. Any questions? Seeing none, thank you for your testimony. Further testimony? [LR323]

JASON TULLER: Hello. My name is Jason Tuller, and I...J-a-s-o-n T-u-l-l-e-r, and I'm the community development director for the city of Imperial, Nebraska. I'd like to focus on one aspect of the N-CORPE project that Senator Groene asked to be addressed in his interim study resolution. What impact will the project have on the ability for producers to remain in agriculture? As mayor...oh, I'm not the mayor, I'm here instead of the mayor, but he had to work today. But as a community developer for the city in the Republican Basin, I'm interested in this question, because it's relevant to the future of my city and other cities all across the basin. Now I don't see how the answer to the question would be anything but a positive one. Without N-CORPE, farmers in our area would have to be...have to completely stop irrigation in some cases, which creates a strong likelihood that many would have to leave agriculture to other parts of the state. It is a testament to farmers in our area that many didn't leave before this N-CORPE project was started. For a long time now, there has been a great degree of uncertainty about what types of irrigation shutdowns would be needed to keep the state in compliance with the compact. Now there is always a lot of discussion about what needs to be done to keep young people from leaving small cities like Imperial, in rural Nebraska, and the main thing is we need economic stability that provides hope for a promising future. We are blessed with an abundant supply of water in our area, that if managed correctly, can provide that stability for generations to come. Lacking a project, we would lose access to much of the water supply. Losing irrigation in the area would have a devastating effect on our community and the area. The majority of jobs in Imperial are agriculturally based or are ag support services. The headquarters of Frenchman Valley Co-op are located in Imperial, as well as several other ag businesses directly involved in

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buying or selling grain and produce. We have three major agricultural implement dealerships located in our community, and also, Imperial is a retail hub for the area. People enjoy shopping in both of our grocery stores, in our vibrant downtown, as well as places like Adam's Lumber, Owen's True-Value, Harchelroad Motors, or at our new Bomgaars store. All of these businesses are dependent on income derived by customer...from customers involved in agriculture. In committee meetings for economic development, I always have to answer the question: what if there's no water? What happens? Why should we do any improvements in our town, because eventually, we'll lose water? My answer is usually: that it's too big of a disaster. But we need any kind of diversification that we can in order to survive any water shortages that happen. Now, Imperial was able to grow by 4.5 percent in the last 2010 census, despite all of this uncertainty. It's very difficult to find an empty storefront on Main Street in Imperial. There are a couple, but it's not empty by any means, and it's thriving. We have a total of 30 new homes, and 16 new business buildings that were built in the past 5 years. School enrollments are at the highest point in a decade. The growth in our city helps surrounding cities as well. You can go to North Platte or McCook on any given day, and you'll see plenty of cars from Chase County at businesses in those cities. On the other hand, each day in Imperial, you will see many vehicles from out of town and even out of state who come to enjoy shopping in our downtown and enjoy our community. Now, I don't need to tell you how sad it is to see many of the communities in rural Nebraska that are drying up. We tried hard in Imperial and in other communities in the basin to keep that from happening here. I ask you to please appreciate the stability that irrigation offers to our area as we continue to move forward and continue to make southwest Nebraska a place that people want to live. [LR323]

SENATOR SCHILZ: Thank you, Mr. Tuller. Any questions? Seeing none, thank you for your testimony. [LR323]

JASON TULLER: Thank you. [LR323]

SENATOR SCHILZ: Further testimony? Good afternoon. [LR323]

JAY SCHILLING: Afternoon. My name is Jay Schilling, J-a-y S-c-h-i-l-l-i-n-g. I'm a director on the Frenchman-Cambridge Irrigation District board and also director of the Middle Republican

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NRD. Somebody recently asked me what I did wrong, and I don't think we want to start that. (Laugh) I was not a director on the Middle Republican when N-CORPE was brought to them...or the proposal for it. If I had been, I would have voted against it, because I felt there was a lack of sufficient study and also hearings. I also feel that it's regressive thinking to pump our ground water into the river and out of the state instead of using other management actions. But as I'm now a member of the NRD and still a member of the irrigation district, I have to look at how do we move forward with this project and others. And I think one of the main things, especially with this project, we have to get past the sensationalization (sic) and the PR. There has been and there will be a lot of talk about the economy. The economy is very important, but you also have to realize what might help one sector or one person's economy might have a detrimental effect on others. So we have to keep in mind the economy of the entire area. I think before any augmentation project is allowed to be operational, studies have to be conducted by unbiased researchers to ensure that there is a...as close to a net zero effect as you can get. If we don't have this net zero effect, then we don't have a sustainable plan to take care of our citizens or resources. As far as to date, concerning N-CORPE, that I'm aware of, the Middle Republican NRD is the only one to do any type of study. We're currently doing a....paying for a small study to be done on the...on a portion of the Medicine Creek Basin. This...the study I'm talking would have to take into account the entire basin and in this case you've got two basins to take into account. There's many things that you'd need to look at. Some of the things...one of the things with augmentation projects is the way we do the crediting. Does someone else down the road have to make up...or not down the road, but down the river, have to make up for water that doesn't reach its destination? You've got to look at harm to other water users of any type. You've heard about stream bank erosion. How does it affect what happens with surface water deliveries? Things of this nature. And as mentioned earlier, N-CORPE does have the potential to keep Nebraska in compliance, but while the rivers and reservoirs west of Cambridge are severely diminished due to continued depletion to the streams from the excessive ground water pumping. In other words, you're making up for the depletions halfway...at Cambridge, and the depletions are continuing west of there. And then, as we have these studies, we need to follow them to form an operating plan. I guess in testifying today, my goal is to encourage legislation that requires mandatory, unbiased studies and operating plans that utilize the findings to greater net zero effect. This should be a requirement before a project becomes operational or before any current projects maintain operations. We've heard many reasons for the stream flow depletion in the Republican

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Basin. We've heard about decreased runoff and several other things, riparian things, but the fact of the matter is that the ground water pumping is the only feasible thing that can be regulated to enhance stream flow. So that's what we...I feel...that's the only thing under our control to look at. And, you know, does it really make sense to use these augmentation projects to pump our way out of a pumping predicament without a well-thought-out and common-sense approach? And with that, I thank you very much for your time. [LR323]

SENATOR SCHILZ: Thank you, Mr. Schilling. Any questions? Seeing none, thank you, sir. [LR323]

JAY SCHILLING: Thank you. [LR323]

SENATOR SCHILZ: Further testimony? [LR323]

MIKE CLEMENTS: (Exhibit 10) Good afternoon. Senator Schilz and members of the Natural Resources Committee, my name is Mike Clements, that's M-i-k-e C-l-e-m-e-n-t-s. I'm the general manager of the Lower Republican Natural Resources District, and I'm here today to testify on behalf of our board of directors. Since 2007, the Lower Republican NRD has implemented a number of controls aimed at reducing consumptive use. A moratorium on drilling new irrigation wells was implemented in 2002 and a moratorium on adding new irrigated acres was implemented in 2004. Since 2005, the Lower Republican NRD has temporarily or permanently retired over 17,000 acres through programs such as AWEP, EQIP, and CREP. This equates to a water savings of nearly 13,000 acre-feet every year. We presently have the lowest ground water pumping allocation in the state of Nebraska, at 9 acre-inches per year. The controls implemented in our Integrated Management Plan are aimed at managing ground water consumption over the longterm, while still maintaining the economic viability of the local economy. While the implementation of strict controls has been very successful, we still need the ability to manage our water supply in drought conditions, when the water supplies are low. The N-CORPE project has allowed us to do that. Coming off two of the driest back to back years on record, 2012 and 2013, our district was facing a projected shortfall of 17,370 acre-feet of consumptive use for 2014. Without the N-CORPE project to aid in offsetting that deficit, our district would have had to curtail pumping on 46,700 rapid response acres at a water savings of

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8,719 acre-feet. Curtailing pumping on all 327,000 acres in our district only nets about 9,600 acre-feet of consumptive use the first year. And I guess the point that I'm trying to make with that...by restricting wells and restricting water use, particularly in a short term...to try and see a huge return, it's not going to happen. I just said we could shut off all 327,000 acres and the first year we would only get about 9,600 acre-feet of credit. So that's causing a lot of severe economic impact on individuals for a very little bang for your buck. I guess in closing, N-CORPE is a necessary and valuable tool which allows us to maintain the economic viability of our district. Ground water irrigation is the lifeblood and economic driver of rural Nebraska. I appreciate the opportunity to speak to you today and I would be glad to answer any questions. [LR323]

SENATOR SCHILZ: Thank you, Mr. Clements. Any questions? Seeing none, thank you for your testimony. [LR323]

MIKE CLEMENTS: Thanks. [LR323]

SENATOR SCHILZ: Further testimony? [LR323]

DWIGHT MILLER: Good afternoon. My name is Dwight Miller, D-w-i-g-h-t M-i-l-l-e-r. I'm right at the very head of the lake at Wellfleet...my mom's land. Unfortunately, she can't be here, she's 91 years old. January 14, 2014, we had a powwow on my bridge with N-CORPE, NRD, myself, Jerry Hitchcock, his secretary, who is now Lincoln County's Department of Roads, and a couple neighbors. We was told that my bridge would be sufficient to hold the water that was going to come down through there. I asked them what they were smoking. We agreed to have three eight-foot tubes put there. When I came down a few days later, they're putting in two six-foot tubes. I asked them why the change. The engineers...the people who was putting it in said the engineers in Lincoln and Omaha decided that would be enough. I also know that my wells out in the canyons are windmills, there's not near the water there that...it's significantly dropped. I'm having to put pump jacks on with gas motors to run water for the cattle. To me, NRD lied to me. They told me when we had our powwow on our bridge that I would have a contract. Not one piece of paper. I had to call about the easement. All the other neighbors up the creek got easements. They never offered me one. Finally I got one, but to me, NRD has lied and lied and lied. I am using those terms very clearly. Now I could say a lot more, but due to my profanity, it

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would not be appropriate for the ladies or ministers here, (laughter) so I thank you very much.
[LR323]

SENATOR SCHILZ: Thank you for your testimony. Any questions? Seeing none, thank you.
Further testimony? Good afternoon. [LR323]

KELLY TRAMBLY: (Exhibit 11) Hello. I am Kelly Trambly from Campbell, Nebraska, K-e-l-l-y T-r-a-m-b-l-y. I would first like to thank you for allowing me the opportunity to voice my opinion on the N-CORPE project. My husband and I operate a grain and livestock operation south of Campbell. I am also vice president of South Central State Bank in Campbell, Nebraska. The bank has an asset size of around \$120,000,000, with four branches, three of which are located in the Lower Republican: Campbell, Franklin, and Oxford. Our fourth branch, Blue Hill, finances several customers in the Lower Republican. I would estimate that two-thirds of our operating customers farm in the Lower Republican. In addition, I would estimate to half to two-thirds of our ag real estate loans are secured by collateral located in the Lower Republican. For reference, South Central State Bank has \$20,000,000 in ag real estate loans and \$28.6 million to finance agriculture through operating machinery equipment and livestock loans. Prior to the implementation of N-CORPE, our bank was beginning to analyze the location of real estate being offered as collateral. When analyzing a loan request, discussion was held to see if the property was located in a quick response area and would likely receive no water during water-short years. In addition, all property in the Lower Republican would obviously be worth less than property located outside the district that was not facing the potential ramifications that were imminent prior to the N-CORPE project. We were arbitrarily reducing the irrigated acre values on property being offered as collateral if it was located in the Lower Republican. It was a concern amongst bank management if the Kansas lawsuit was successful and forced a widespread shut down of irrigation wells in the Republican River Basin, as it would have a major impact on a majority of our customers and the bank's collateral position. The N-CORPE project has had a substantial positive impact in our area. First, for our customers, it protects their ability to generate revenue on irrigated acres and protect their net income. Second, the project stabilized the bank's collateral position. If our ag real estate loans secured by land in the Lower Republican were now secured by property that was once irrigated and would now be considered dryland or would face large allocation reductions, the asset quality of the bank would deteriorate. Finally, if

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not for N-CORPE, the entire economy in the south central Nebraska would have been negatively impacted. Irrigation shutdown on approximately 300,000 acres in the Republican River Basin that was requested by Kansas, in the lawsuit, and substantial allocation reductions on the remaining acres would have an enormous impact on our area. It is for these reasons that I believe that the N-CORPE project is successful and a beneficial solution to everyone involved with agriculture in the Republican River Basin. Thank you. [LR323]

SENATOR SCHILZ: Thank you, ma'am. Any questions? Seeing none, thank you very much for your testimony. (Inaudible). [LR323]

MIKE DELKA: Good. Maybe, I don't know. Good afternoon. My name is Mike Delka, M-i-k-e D-e-l-k-a, and I'm the manager of the Bostwick Irrigation District in Nebraska. I've agreed with most of the things that have been said up here. One of the things that Senator Ebke (sic) said, that I'd probably disagree with, is that damages have occurred in the Lower Republican NRD. One of the earlier gentlemen alluded to the fact that when you put water into a system and transport it and evaporate from it, somebody has to make up for those losses. And for the last couple of years, it's been the people in my district. We serve ground in Harlan, Franklin, Webster, and Nuckolls Counties in Nebraska, and in 2013, we were only allowed to use the water that was carried over from 2012. In 2014, we did not have enough water to operate. In 2015, we had to sign an agreement opening up our MOA of our contract with the federal government and our sister district, to allow that 17,300 or 17,500 acre-feet would be deferred and kept away from our users. And we have a similar agreement, which you probably read about the Republican River Compact Resolution, and it's pending on the agreement that we will have to develop. Was that thought of at the time? No. Is it a fault of N-CORPE? Well, to the degree that they're not having to pump the full amount that will reach the state line, some 100-and-some miles, or 200 miles away. I think there should have been a little bit of a study on what that was and what that entailed. The users in the Lower have been taking a big hit. This year, with the limited supply, and we haven't run our canal for two years, our delivery was 4.8 inches per acre. You've heard people already testify that if they had to go with six they couldn't farm. So have there been damages? I would have to say yes. Has it been going on for years? Yes. Do we see it stopping? Not without change. Where do we...now we're talking about putting a Kansas account in Harlan County Reservoir. We have warren water in Harlan County Reservoir. We have all these

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changes...and we have a lot of water users that say, you know, we go to the county assessor, we want to go from irrigated to dryland, because that's what it is. But we can't do it on a year-to-year basis. And when we do get water, we still have to pay the occupation tax. So is it a fair and equitable system? No. Has it hit us? In about every sector. What would happen if somebody else had to do it? Well, it seems that this...for those last several years, and some prior years, that it's been a small amount of people in the same area that have been getting shut down, been getting shut off, or being abstained. Or if this water is pumped, it's now Kansas water: it's not to be depleted. If anybody has to make up depletions, it's got to be somebody in Nebraska. Are these other people pumping Kansas water also? I mean, we're starting to put labels on things. With a good study, maybe we could have avoided that and avoided a lot of the conflicts. Our reservoir, the Harlan County Reservoir, has been...had the inflows depleted by over 80 percent. Is that something positive? Is N-CORPE being ran to replace those depletions? N-CORPE is being ran for compact compliance. We have not heard anything about the depletions that have been hitting it. So I think we are very supportive of having a study before we go forward with some of these projects. And now we're also talking about transbasin diversions. If that water is to be protected, it's to be protected from who? And who is going to make up the transport losses and other things? These are things that we need to know up front. So seeing my time is about up, I will stop there. And I thank you for the opportunity to comment, and I think it's a big job ahead of you. Thank you. [LR323]

SENATOR SCHILZ: Thank you, Mr. Delka. Any questions? Senator Groene. [LR323]

SENATOR GROENE: Senator Groene. I believe your Senator, back there, is probably Senator Ebke. [LR323]

MIKE DELKA: I seen that, I couldn't...but I was sitting over there, so I thought... [LR323]

SENATOR GROENE: That was a compliment, she is a good lady. But anyway, so...you said it, N-CORPE did nothing but solve the lawsuit? [LR323]

MIKE DELKA: I think that's what it was designed to do. [LR323]

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SENATOR GROENE: But all it did was solve the lawsuit. It didn't solve any of the depletion problems we have, the ground water drops in the Lower Republican, the fact that Harlan County is not full of water, and the ground water depletion rates in the Upper Republican. It solved none of it. Would you call solving a lawsuit good management for the future? I think you kind of agree, you think we should be studying things, looking for better answers, than robbing Peter and paying Paul. [LR323]

MIKE DELKA: Yeah, I agree. That's...I'm very much in favor of the study before we go forward with something, yes. [LR323]

SENATOR GROENE: Well, I just wanted to clarify all the compliments about the economic loss and things. We haven't solved anything and that's what my LR323 is trying to accomplish. [LR323]

MIKE DELKA: Right, and that's why we support it. [LR323]

SENATOR GROENE: We have solved nothing but a lawsuit. Thank you. [LR323]

SENATOR SCHILZ: Any other questions? Senator Davis, I'm sorry. [LR323]

SENATOR DAVIS: I've got just a couple. Did you say this year you were only able to deliver four and a half inches? [LR323]

MIKE DELKA: We delivered, on average, 4.8 inches. We...everybody...because we have a limited supply, we basically had to...all of our water users also want a little bit of forewarning before we shut a canal off. We did receive between the time that we announced a shut-off date, that we were sure that we could make...we had enough supply to get there. We wanted to make sure that we could get to that shut-off date. They wanted to have a date that they could run up next to. So we did carry over a little bit, but 4.8 I think...3 or 4 inches was the last number that I've heard. [LR323]

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SENATOR DAVIS: So how did that relate to other floodwater irrigation districts...or surface water? Were they all about in the same ratio? [LR323]

MIKE DELKA: No. I think we probably did that well on an average. And an average is a little bit different. They are for people who actually got a little bit more. But we had some ground that we here...that we service over in the Nuckolls County area that had received a lot of beneficial rain that people in the Franklin and Harlan County areas did not. So...and we allowed some pooling of waters so that there were fields that got as close as I believe 10 inches. And we put a cap on that nobody was going to get anywhere near 12, no matter what. But in January it was announced five inches, so that was pretty close to what it was. [LR323]

SENATOR DAVIS: And so...and then, how about the ground water irrigators? How much were they allocated? [LR323]

MIKE DELKA: I would defer that to the NRDs. [LR323]

SENATOR DAVIS: Do you have any idea though, I mean...I should have asked that question when they were here earlier. [LR323]

MIKE DELKA: I've only spoken to one or two and that's just in our area. And typically it would be comparable, if not a little bit more because we basically have a shorter season. We don't really offer the opportunities to water a crop up or apply a lot of fertilizer early season or late watering. I mean, we have to bunch everybody, doesn't matter if you've got corn or beans, I mean. So we are very concise, both in the duration of our irrigation for efficiency purposes. And it became a struggle this year, it really did. [LR323]

SENATOR DAVIS: Thank you. [LR323]

SENATOR SCHILZ: Thank you. Senator Davis, Mr. Delka, thank you very much. Any other questions? [LR323]

SENATOR DAVIS: Thank you, Ken. [LR323]

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SENATOR SCHILZ: Thanks. Good afternoon. [LR323]

MILAN MOORE: Good afternoon. I'm Milan Moore, from Sutherland, M-i-l-a-n M-o-o-r-e. There's I guess a couple of real big picture things I think we need to talk about and I would hope that your committee, Senator Schilz, would address the bigger pictures. And we can, as citizens, maybe address the smaller things. I think probably the most important thing that was stated today, Doug Hallum mentioned that there are 9,000,000 acre-feet moving out of the state every year and less than 2,000,000 coming into the state every year. That means we're utilizing and sending on a lot of precipitation that happens in this state. And I guess my bottom line, and I would wish that it would come out of this committee, would be some effort to have the Legislature as a whole address constitutional amendments that would allow transbasin diversion and other...address other things that had been placed into law since the time of our constitution being drawn up. Because we have water. Most of our Legislature is from Columbus on east. Most of our water is gathered in this state, Columbus on west. Now, as far as I'm concerned, out here we would love to supply the water into the Platte River that Omaha District would love to...Omaha's Municipal District would love to have for drinking water and other uses. We would love to have some meeting of the minds from western Nebraska, especially the Sandhills, where we gather huge amounts of water--a net of 7,000,000 acre-feet of water. There's no reason we can't support everything we need to do to keep all of our irrigators operating at high efficiency, all of our citizens drinking good water, and all of our recreators doing all the recreating they want to do as long as we can get some votes in the Legislature to change some of these restrictions that we have by constitution and by law that we've done up to this point. I think that's the big picture. Thank you. Any questions? [LR323]

SENATOR SCHILZ: Thank you. Senator Johnson. [LR323]

SENATOR JOHNSON: Thank you. A couple years ago we passed water sustainability and those same figures were presented as far as the water that goes out of the state. Do you feel that that is a first step in order to better utilize and sustain our water, to keep it in Nebraska? [LR323]

MILAN MOORE: Well, we have to continue to do some of the things that we're doing so that we can operate, but we need to get to the point...and I would hope that the Natural Resources

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Committee could come up with a bill that starts addressing a way that we can change our whole state's operation. I know that every state has their own situation, but there's very little water most years that flows into Nebraska in the off-season from Colorado in the South Platte River, because they're pumping it all out and putting it into on-farm small storage facilities until they get them full. Now, a couple years ago, they were full in October, they were full in September, when Boulder sent a little water down their way. And they got those filled up quick, so we had high water on the South Platte River, not only in...through the winter of 2013-2014, but in the spring of 2014. But also it continued to our...this spring, because the Poudre River above Fort Collins was still...had still raging water flowing through the soils out into the creeks and streams of the Poudre and it was dumping into the South Platte. We had high water in the South Platte River. They had no problem storing the water that they wanted to in eastern Colorado. We don't have that ability to do things like transbasin diversion and some other things legally. We need to address the legal situations. [LR323]

SENATOR JOHNSON: Thank you. [LR323]

SENATOR SCHILZ: Thank you, Senator Johnson. Any other questions? Seeing none, thank you for your testimony. Further testimony? [LR323]

RYAN STROMBERGER: Good afternoon. My name is Ryan Stromberger, R-y-a-n S-t-r-o-m-b-e-r-g-e-r. I live and farm near Champion, which is southwest of Imperial a little ways. Our operation consists of about 10,000 irrigated acres and 2 feedlots with a combined capacity of a little over 20,000 to 25,000 head. Without N-CORPE, at least a couple thousand acres that I farm and possibly the feedlot would be at risk of facing total water-use shutdown in the future to help maintain compliance with the Republican River Compact. I don't need to give any details of how that may affect my operation and over the 30 employees that I have. Instead, I would like to focus on one general theme contained in Senator Groene's study LR323. The impression one gets from reading this resolution, is that farmers in our area lack information about the project. And that is not...and that was essentially sprung on us without adequate analysis of consequences. That is not the case. Farmers in our area have known for approximately 10 years that without augmentation we would face irrigation shutdowns. For several years, the NRDs studied augmentation as a compact compliance tool and a similar project to N-CORPE. The

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Rock Creek Augmentation Project was built in our NRD more than a year before N-CORPE would begin. Without that project, we would have had irrigation shutdowns in the Upper Republican NRD in 2013. For years, we've hoped that the state would pay for compact compliance tools. When it became clear that this wouldn't happen, we supported an occupation tax being levied in our district to pay for projects such as N-CORPE. I think it's important to remember that this is a project paid for by irrigators in our region to help the state of Nebraska in compliance with the compact. While the intent of the occupation tax was to increase stream flow to maintain compact compliance and augmentation had been studied for years, I also understand that the NRDs had to move quickly to implement the project. For one, the land where the project is located was on the open market. Telling the sellers to wait for a year, while we investigated the potential of the N-CORPE project, obviously wasn't an option. Had they not acted quickly, to buy the land and build the project, there was a chance that the state would have been out of compliance in 2014 and 2015. The resolution also asks that the impact on property taxes be studied. This is an unusual study focus because one intent of the project is to retain property values throughout the basin. The impact on property values caused by possible taking the N-CORPE ground off of the tax rolls would be dwarfed by a reduction in property values across the basin, that would occur if there were regular irrigation shutdowns in the Republican Basin. By and large, farmers in our area understood what the occupation tax was for and support the use of it to implement projects like N-CORPE. I can assure you that farmers would be very upset at the NRDs and the state knowing we had paid occupation tax for years and still been out of compliance with the compact. I know I would be. Our farm has payed roughly \$800,000 in occupation taxes over the last 8 years. Nebraskans outside the basin would have reason to be upset as well. Essentially, the Legislature would have given us the tools to maintain compact compliance, but we would have failed to effectively use them, making taxpayers across the state of Nebraska liable for significant damages Kansas would seek for noncompliance. In summary, we have paid a remedy to the compact compliance issue and done what we believe the state of Nebraska expected us to do. Thank you. [LR323]

SENATOR SCHILZ: Thank you, sir. Any questions? See none, thank you very much for your testimony. [LR323]

RYAN STROMBERGER: Thank you. [LR323]

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SENATOR SCHILZ: Further testimony? Mr. Paulman (inaudible). [LR323]

RORIC PAULMAN: A lot of familiar faces. Thank you, members of the Natural Resources Committee, Chairman Schilz and other senators. We've heard a lot today, and we're going to hear some more, obviously, but I don't want you to forget about the system that's in place. And in particular, you've heard about IMPs and you've heard about enforcement of IMPs. And also, there's a basin IMP that is in place as a result of legislation out of LB1098 last year, that Senator Lathrop attached to the funding...the Water Sustainability Fund and that process has started. We've met two times, I think we're going to skip the October meeting, but that process allows...or has a forum for these kinds of conversations. Now, do I agree entirely with N-CORPE? No, but I understand that it is a tool in the toolbox. Do I like paying property tax? No. Do I want to pay any more in occupation tax? No. Our operation in itself, we're about 9,000 irrigated acres, of which about a third is in each district: a third in the Upper, a third in the Middle and about a third in the Twin Platte NRDs. So we have a vested interest in terms of not only investment in our land, in our resources, but also the conservation of those. I'm an advocate of conservation in a pretty significant way. There are tools out there that are oncoming, that are onboarding that will allow us to continue to irrigate to implement strategies that make a difference. And whether it's in satellite imagery, whether it's in soil compaction probes, whether it's in metering and measuring, whether it's in exactly knowing what the consumption is with each and every different crop. The investment by the university in Grant, Nebraska, in the Stumpf Center, looking at rotations. There are tons of tools that are out there. This isn't a finite operation here, that we're looking at. We're investing in the future, but we don't move as fast as everybody would like to and there's some cost associated with that. Now, the fact that all of us irrigators are assuming the brunt of that, and also the taxpayers that are in these counties, annoyingly are also being asked to pay a bit more of that, as well, too, in the levies that come with their own real property. But the fact remains, we are working on it. The IMP process is very tough because you are asking all these same people to sit in a room and talk about issues, talk about ground, talk about surface, talk about municipals, talk about water quality and it's not free: there's some kind of cost. I co-chaired the Water Sustainability Task Force that Senator Carlson led, and obviously with the landmark...legislation LB1098, and we finally invested in water. We finally took a step forward that says we have a responsibility. Is \$10,000,000 enough? Probably not, but the conversation...the direction in these kind of conversations that are happening in this room are

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what's important. It's important that these constituents over and over and over are heard. That every one of us has the forum to be able to do this. Now, 60 days isn't going to be much fun to try and tackle something like this in all its entirety, but I do believe that these kind of projects need some evaluation, as do levees in Omaha and sewer water separation in Omaha or municipal water projects on the Platte River that they're going to look upstream to. Eventually, they're going to look to us. They're going to look up the Platte River and say hey, you're still irrigating. You're still doing the same things and we need more water for a city that's growing. I don't know if we can answer that call today. But I see that that call comes...in the same respect we're talking about the Republican Basin, but there are many other basins that we're going to have that same conversation about. And how do we do that? How do we do it together? And how do we make this an effort that is in the best interest of not only irrigated agriculture, but the municipal water supply, the environment, and everything else that is capable of being a part of that? Again, don't forget...I'm just reiterating that we have an IMP process. It's in place and I'm encouraging the people that are in this room, as well as the news media, that that's the forum. You yourself have set that forum that that process. And we need to take full advantage of that. With that, thank you. [LR323]

SENATOR SCHILZ: Thank you, Mr. Paulman. Any questions? Seeing none, thank you so much for your testimony. Further testimony? [LR323]

LEE FINTEL: I'd like to thank the committee for hearing me speak today, as well. My name is Lee Fintel. I'm a producer in the Superior area in the Lower Republican NRD. I farm about 1,500 acres, roundly half of that irrigated, half nonirrigated, and of those irrigated acres: about half ground water, half surface water. [LR323]

SENATOR SCHILZ: Sir, could you please spell your name? [LR323]

LEE FINTEL: Yes. It's Lee, L-e-e, Fintel, F-i-n-t-e-l. [LR323]

SENATOR SCHILZ: Thank you. [LR323]

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LEE FINTEL: I'd heard...before I go through my prepared comments...I'd heard a couple comments today about that N-CORPE hasn't solved anything. Without N-CORPE, where I farm, we would have likely been shut off from any irrigation water in the last two years. It solved that problem for us, and I think it solved, at least temporarily, the potential for some large liabilities to the state of Nebraska with compact compliance. So I think it has done some good. The N-CORPE project protects both the state of Nebraska and underpins an economic vitality of the entire region of the state of Nebraska known as the Republican River Basin. The N-CORPE project has virtually eliminated potential liabilities to the state of Nebraska tied to compact compliance that could stretch well into the hundreds of millions of dollars, as has been demonstrated by the legal actions of Kansas in the past few years. A 2007 study done at the University of Nebraska in Lincoln shows that if the average allocations for ground water irrigators in the Republican Basin were to be reduced for compact compliance by 15 percent in upland areas and 40 percent in quick response areas, the overall economic impact to the businesses in the basin would approach \$200,000,000 and would cost the basin 500-plus jobs. Further, property owners would suffer lost property values of \$277,000,000, driving a loss in property tax revenues of nearly \$4,000,000 annually. Each year, irrigated land in the basin provides roughly \$35,000,000 in tax revenue to support governmental subdivisions such as schools, cities and counties. The numbers I just cited are representative of values in 2007, when the study was completed, when commodity prices and land values were 30 percent to 40 percent below today's depressed values, and less than half, at least on the commodity side, of the values a couple years ago. Using current commodity prices and land values, the economic devastation would be significantly larger than that shown in this study. Again, this scenario only describes the 15 percent and 40 percent pumping allocation reduction for upland and quick response acres respectively. Further, in the event Kansas had its way and was able to via legally maneuvering within the compact framework, to force complete retirement of the 659,000 acres that could have been potentially shut down from irrigated production in 2014, had it not been for the N-CORPE project's ability to augment stream flows, the basin would have forever been rocked with catastrophic economic losses, shredded land values, and widespread population exodus. If the N-CORPE project would have been in place starting in 2006, it would have pumped in 2006 and 2007 and then it wouldn't have pumped for 6 years...not until 2014. Estimates show, based on historic flows, using science, not speculation, that the N-CORPE project would only need to be used on average, for compact compliance, once every three years and at the rate generally the

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same as what was being pumped on those lands for the previous irrigated agricultural production. University of Nebraska data shows that the aquifer that the N-CORPE project pumps from has sufficient recharge to sustainably supply the amount of water needed to stay in compliance with the Republican River Compact. Again, based on historic flows and generally the same as what the...what it was previously using in agricultural production. The data shows no drop in static water levels there between 1981 and 2011, representing 30-plus years of irrigated production and growing crops on sand. In my opinion, from the perspective of the producers in the Republican River Basin, who have to live with this bad agreement...the compact, the N-CORPE project has been a tremendous success. It's helped us stay in business. I wish there was a better answer. You know, there may be in the future, but for now, I think it's our responsibility...our fiduciary responsibility...of all of us to take care of it, to use it wisely and to protect ourselves with that project. Thank you. [LR323]

SENATOR SCHILZ: Thank you. Any questions? Seeing none, thank you very much for your testimony. Good afternoon. [LR323]

JARED BAKER: Good afternoon. Thank you very much for your opportunity to hear the public's voice in this. Towards the tail end of our...I guess the culmination of all these peoples' testimony, we've heard the same things over and over, oftentimes, and it kind of seems redundant to say a lot of the things that I had prepared, obviously. But my name is Jared Baker, J-a-r-e-d B-a-k-e-r. I manage Community Bank in Alma and Stanford, Nebraska, which is just north of the Harlan County Reservoir. I also operate a cow-calf operation and an irrigated farm...and farm an irrigated farm north of Republican City with my wife and kids, and have a genuine interest in the long-term sustainability of water in our area. I am a member of the Republican River Basin Stakeholder Advisory Committee and have taken an active role in the long-term water sustainability discussion. At the bank, I work daily with farm customers that are directly impacted by irrigation and have performed some research, I guess you would say, to the impact of irrigation on our Community Bank and market area. Like Ms. Trambly, earlier, we were very concerned about what was our potential to the bank, in the event that the water was shut off. During these studies...I guess one study that was developed was by Farm Bureau, which most of you are probably familiar with. It was entitled: The Economic Impact of the Ability of Nebraska Agriculture to Irrigate the Case of 2012, which was probably some of the more recent

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information. It states: using the most recent U.S. geological service data, the \$11 billion in total economic impact from irrigation helps determine that every inch of water placed on an acre of cropland generated roughly \$100 of economic benefit to the state. I know we've all been talking about how it impacts us, and a lot of us are farmers and ranchers in the area, but I have some information...what does the rest of the population get, as far as economic benefit? Not only what do us farmers get from the \$100 of water or inch of water. Based on these figures and the USDA's National Ag Statistics Service, accounting of irrigated acres in our Community Bank market area, irrigation impacted our local economy by more than \$126,000,000 in 2012. Using the 2012 census data, the same year, there's estimates basically....let me start over, I apologize. Using the 2012 U.S. Census Bureau estimate, this equated to more than \$21,332 of income per person in our market area. That was a staggering 82 percent of the per capita income. Let's drop this...let's drop irrigation and take 82 percent out. How much income tax, how much property tax, how much personal property tax, how much does that affect us? N-CORPE has provided us a tool, flawed as it is, but it has provided us a tool. We participated, about five or six years ago, in the tree cutting program that went down the Republican...or the tributaries of the Republican River and cut the trees out so they didn't drink the water, so the rivers would flow more. We're open...I'm open to that discussion of what can we do. I mean, what can Omaha do? What can we do? All throughout the state, what can we do? I do think that our NRDs are made up of flawed people just like all of us, and that we're all working towards the same goal, which is sustainability. Part of our...we need tools like N-CORPE to be able to provide predictability on the dry years. So I do support the N-CORPE project. I do think that it has to be a part of a bigger picture, but it is something that absolutely needs to be in our toolbox for years to come. Thank you. [LR323]

SENATOR SCHILZ: Thank you, sir. Any questions? See none, thank you for your testimony. [LR323]

JASPER FANNING: Good afternoon, Senator Schilz, and members of the Natural Resources Committee. My name is Jasper Fanning, J-a-s-p-e-r F-a-n-n-i-n-g. I am general manager of the Upper Republican Natural Resources District, and one of the managers that helped implement the N-CORPE project. I would like to touch with the committee on just a couple of things from the comments that I've heard today. And generally, a lot of the concerns that the people have, are

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the same concerns that the NRDs and the districts have as well. We want to manage the water. We don't want to have impacts on neighboring land owners that don't work for them because they also don't work for us. We had some challenges to overcome, though. One comment Senator Groene made about scare tactics and us telling people that their wells were going to be shut off...I don't consider that a scare tactic. I consider that public notification that we're going to potentially have to trigger the rules that have already been adopted by the state of Nebraska in the three NRDs in the Basin. And if the NRDs didn't implement them, once those triggers were hit, I'm sure the state would have used its police powers. Because while we were in front of the United States Supreme Court, over a trial for noncompliance in 2005 and 2006, it was the state's policy from the Administrative Branch that we would not violate the compact again, unless those plans were going to curtail roughly 100,000 acres in the quick response...or rapid response area. In addition to that, the Middle Republican NRD's rules treated everyone the same. So if they're area next to the river got shut off, so did the additional 200-and-some thousand irrigated acres for a total of roughly 370-some-thousand irrigated acres that would potentially be shut off for noncompliance. We've heard a little bit about how this process moved too fast. I would just say that it almost moved too slow. We studied augmentation from 2006 through about 2010. We're sitting there thinking things were pretty wet and we had a little bit of time. And then 2012 came along, and cut our timeline to get a project like this in place into about zero days to take action. We did move pretty quickly, but one thing that we had identified through that study was that we just needed a site, a site that had an aquifer that could provide high-capacity wells and provide water when we needed to use it. And it was going to take a pretty big block of land. And knowing that it would be very difficult to negotiate for multiple landowners for a large block of irrigated land, thousands of acres in an area suitable, or condemn it from multiple landowners being very difficult. One of the prudent actions to look for is an opportunity to purchase a farm that fits the bill, and we were actually lucky in two cases, both on Rock Creek and N-CORPE. And in terms of location, one of the more meaningful comments that I've ever received was from Jim Goeke, former UNL CSD person here in North Platte, that knows more about the aquifer in this part of the state than anyone. He told me he couldn't pick a better location than the two that we did for an augmentation site, based on the properties of the aquifer. Tells me we did pretty good in getting lucky and having those farms be available for sale where they were at. With respect to the lowering of the water table, that's something we're monitoring. We couldn't afford to use 115 irrigation wells and plumb them all in. That...you know, we put 20 miles of pipe in the

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ground as it was. We would have taken hundreds of miles of pipe to collect that many wells and put them together. So, yes, we consolidated the well field, so you're going to pump more water from a smaller area and that is going to be a change from what has historically occurred. But so long as we manage the pumping, so that on average, over the longterm...not one or two years, but the longterm, we won't have any significant impact on the aquifer that we can't manage. We did learn some things about the wells out there. There are some consolidated or possibly cemented sandstone that no one was aware of, even the old well logs didn't indicate. And yes, we did have some wells that drew down a little bit more than what the engineers had estimated that they would. We also had an engineering design flaw that resulted in us pulling all of our wells and putting them back in the hole with different pumps on. But that was an engineer's error in the calculation that affected all 30 wells from their program, and that was on their dime. So some of the things that you've heard today about issues that we encountered, were issues associated with a very large construction project that was put in place in a relatively expedited schedule. We would have liked to have had more time to put it in place, but quite honestly, we didn't have time. In fact, we got very lucky. In my comments that I handed out, I go into this in more detail, but we got very lucky that the project wasn't needed in 2013. Because in September of 2012, prior to purchasing the property, the department informed us that 2012 was so dry and it changed the water supply so quickly, that things were turning...that we may need to actually utilize that project in 2013 to be able to guarantee compliance in 2013. And we skated by. In fact, the only way that we were able to not utilize N-CORPE in 2013, is while we were constructing the Rock Creek project and already had started construction on that, we modified that design to double the number of wells that could pump into that, and expand the capacity to the very maximum amount that the main pipeline could handle. And we pumped water in 2013 for our district from that and we pumped it more than we would have liked to have in 2014, so that the remaining N-CORPE capacity was capable of taking care of the Middle and the Lower Republican. And so, it took...you know, one of the things that Senator Groene mentioned about how we need to work together as a basin, N-CORPE represents probably the first time ever, that in a significant way, all of the three Republican River NRDs came together and worked together and came up with a solution. And while we can conserve water and do things better in managing water, the one thing conservation and those measures don't make available to us, is they don't take care of the very ability created by mother nature. And you have to have a tool that you can utilize to help with that very ability. If we conserve water and use that as our only method of compliance, we end up

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sending Kansas a whole lot of water in the wetter years that they're not entitled to. And we failed to utilize the water that we're allowed to in Nebraska by failing to manage it with a project like this. And I now see my red light is on. So I'd be happy to answer any questions. [LR323]

SENATOR SCHILZ: Thank you, sir. Any questions? Senator Williams. [LR323]

SENATOR WILLIAMS: Thank you, Senator Schilz. Mr. Fanning, we've heard testimony today about the economic cost of N-CORPE and what that has done in particular to Lincoln County, but also Wallace School and some other things. In your judgment, having analyzed this over a period of years, what would you estimate the economic cost of N-CORPE compared to the economic cost had N-CORPE not happened? [LR323]

JASPER FANNING: Relative to the other remedies available, which are regulation alone, we've heard testimony that the Middle Republican would have had to shut off their entire district under their rules as much as half the time. So they would lose half of the irrigation in the Middle Republican portion of Lincoln County. And to get to the second increment, we've heard from Twin Platte officials that they would have to curtail as much as 40 percent to 45 percent of irrigation. We took about somewhere between 5 and 10...roughly 7 percent, I don't know the exact number, of the irrigated land out of production in Lincoln County. So Lincoln County lost the economic benefit of 7 percent of its irrigated acres, opposed to losing closer to 40 percent to 50 percent of it. So I would...you know, that gives you a relative degree...I don't have a number in terms of millions of dollars, but N-CORPE is actually about 20 percent of the impact or less than what the other alternatives that are available through regulation to us, to achieve the same goals we're required to achieve under LB962. And so, while N-CORPE does have an economic impact, it dwarfs in comparison to the economic impact and the tax impact that would have been created through regulation in Lincoln County alone. I don't disagree that there's a disproportionate issue with the taxes--and the school superintendent and the school board member from Dundy County highlighted that very well--that we can address...I think in some ways that we have ideas on. [LR323]

SENATOR WILLIAMS: Thank you. [LR323]

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SENATOR SCHILZ: Senator Hughes. [LR323]

SENATOR HUGHES: Yeah. Thank you, Jasper. Could you give us just a rough estimate of how much of the N-CORPE project lays within the Republican River Basin versus the Platte River Basin. There was a statement made earlier that it was all in the Platte River Basin. [LR323]

JASPER FANNING: Yeah, I'll correct that. And it depends...there's a couple different topographic maps, so it depends on which one you look at. We purchased 115 center pivots, and of those 115 center pivots, depending on which line you look at on the map, 6 or 8 of those 115 wells lie in the Platte River Basin. The remaining hundred-and-some irrigation wells are in the Republican River Basin. The Republican River Basin actually goes up into the Twin Platte NRD a little bit, throughout most of the wells that we purchased. So the vast majority of the wells are in the Republican Basin, then once the pipeline is to the Platte River, or to the canal, when Twin Platte is done with that, most of the water that gets pumped to the Platte for the program and for them to meet their IMP requirements will come from the Republican Basin. [LR323]

SENATOR SCHILZ: Senator Groene. [LR323]

SENATOR GROENE: I have been told that 13 of the wells are in the Middle Republican, 17 are in the Twin Platte, is that right? [LR323]

JASPER FANNING: As far as the district boundary, yes. I think that's... [LR323]

SENATOR GROENE: The recharge water, where does it come from? [LR323]

JASPER FANNING: The recharge water? [LR323]

SENATOR GROENE: From Platte River, does it not? The mound is caused by the Platte River? [LR323]

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JASPER FANNING: Most of the recharge water would come from precipitation. And then there's also a significant contributor, which would be the canal that runs between Gerald Gentleman and the hydro plant there in the lake at North Platte. [LR323]

SENATOR GROENE: When you figure your new IMPs, is the augmentation water that's in the river count for riverflows...will that increase your ability to irrigate more and raise your water allotments? How does that factor? [LR323]

JASPER FANNING: No. People often get confused about this. The augmentation water in the river allows us to comply with the compact during normal years. We still have to manage pumping, and there was a statement made earlier that said we haven't adjusted our allocations or anything to deal with our pumping being higher than what we wanted it to be. The IMP pumping standards that were referenced earlier, were...the goal of the pumping standards was to control pumping so that over the longterm our depletions to streamflow didn't continue to grow. In other words, making it more difficult to comply into the future. We knew that we could develop tools that could work at the level the depletions were at so we wanted to control pumping and cut it back to keep depletions where they were at. Okay? Two things, our depletions over the last several years have actually went down, even though we didn't meet our pumping standard. Why is that? Well, precipitation is the one thing that matters most and the location of that precipitation and everything else in the model. And in fact, even under normal conditions, our depletions are projected to continue to go down. And so, we need to continue to evaluate how we're analyzing and looking forward trying to forecast, because the assumptions that were used to develop the last IMPs obviously weren't right because they said that we needed to reduce another 5 percent in order to keep our allocation...or our depletion stable. The depletions actually went down, even though the pumping may have been more than 75 percent. And so, we're still in a good shape. We need to reevaluate that on a continue...ongoing basis, so that we can continue to manage our allocations for the longterm, looking at average conditions. The water table may go like this as long as on average, it stays the same over a long time. That's what we're shooting for. [LR323]

SENATOR GROENE: What's your definition of depletions are going down? That means instead of losing a foot a year, you're using six inches? Or are the water tables rising? [LR323]

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JASPER FANNING: No. That...the definition of depletions going down in what we're talking about, with respect to the standards and the IMPs, is depletions to streamflow caused by ground water pumping. So it's the amount of streamflow that's not there because of ground water pumping. Nebraska averages somewhere around, in normal years, 200,000 acre-feet of depletions caused by ground water. And so, we had thought, when we were formulating those IMPs, that if we could keep the state's depletions at roughly 200,000 acre-feet, into the future, we would be in very good shape. The latest projections that I have heard show our depletions dropping to 75,000 acre-feet going, you know, over the next couple years. So we've got about 25,000 acre-feet of water, that in our longterm planning we said we could use, and still be able to maintain compliance with the tools we have in place, and... [LR323]

SENATOR GROENE: Is your ground water levels continuing to drop out there? [LR323]

JASPER FANNING: In some areas. I mean, we have areas of very high development. The first ground water management protection act area implemented in the state of Nebraska was in our district for those reasons. And we continue to decrease our allocation and tighten our rules and regs to deal with those. And we will continue to do so... [LR323]

SENATOR GROENE: So N-CORPE won't help that (inaudible) pumping. [LR323]

JASPER FANNING: No, N-CORPE and the Rock Creek Project were to help us assist the state to maintain compliance with the compact. Regardless of how successful we are in maintaining compliance with the compact, it doesn't affect our need to continue to manage our ground water declines and find ways to deal with that issue. But the two...while they are somewhat related, are two different issues that we have to deal with. [LR323]

SENATOR GROENE: Isn't the depletions to the river based on historic river flow? And as we keep drying up the Republican River, the requirement of riverflow is lower, so then your depletion rate lowers? Isn't that the way this gets factored? In fact the best scenario would be that in the long run, the Republican completely dried up, so that on the average depletion it would be zero because there is no water in the Republican. [LR323]

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JASPER FANNING: No, Senator, I could not agree with that. That's not accurate. [LR323]

SENATOR GROENE: So when you say you're 75,000 acre-feet or whatever of depletion, is that based on a percentage of the total riverflow? [LR323]

JASPER FANNING: The number that I cited, the 175,000 acre-foot of depletions projection that I've heard, or the 200,000 acre-foot target, is the total amount of depletion to streamflow caused by all ground water pumping within the state of Nebraska in the Republican River Basin excluding the use of...what the court counterclaim was over was the accounting of the mound water. [LR323]

SENATOR GROENE: So one last question. All the problems that caused where we're at, N-CORPE just solves the lawsuit? It solves none of those problems? Of depletions? Of the river running dry? Of ground water levels dropping? [LR323]

JASPER FANNING: N-CORPE was designed as a conjunctive management project to increase streamflow, in order to manage water in part...mostly for compact compliance. And I have to say that it has done what it was intended to do under the probably most problematic circumstances that it could have faced in 2014 and 2015. [LR323]

SENATOR GROENE: Thank you. [LR323]

SENATOR SCHILZ: Thank you, Senator Groene. Any other questions? Seeing none, thank you for your testimony. [LR323]

JASPER FANNING: Thank you. [LR323]

SENATOR SCHILZ: I just want to ask a question. We're at 4:00 for time, right now. How many more people would like to testify before we (inaudible)? Raise your hand. One, two, three, four, five, six, seven. Okay, what I'm going to do is we'll go ahead...we'll put on another half-hour. I hope it doesn't take that long, but we will continue here, because I think we've just (inaudible). Don't anybody decide they want to testify after they've raised their hand, though. [LR323]

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JOE WAHLGREN: Afternoon...or should I say evening. [LR323]

SENATOR SCHILZ: Not quite. [LR323]

JOE WAHLGREN: Not quite. My name is Joe Wahlgren, J-o-e W-a-h-l-g-r-e-n, and I'm a third generation farmer southeast of Lincoln County. I also served almost 14 years on the Twin Platte NRD. My testimony today will serve to separate us, somehow, in some ways, from the Republican. Most of the testimony you've heard has been about the Republican River and its problems. And it does have problems and will continue to have problems. But the Platte has its own problems. And I'll tell you a little bit about how the Twin Platte NRD got involved with this marriage with three other NRDs in a different basin. I'm sure you're familiar with LB962, back in 2004. And that declared the Platte River as fully appropriated and our portion of the Platte River as overappropriated. And through that process, we were required to develop some IMPs. We got 25 of our constituents together for a course of almost 4 years and did some education there. Got the IMP developed, and those stakeholders met and worked very hard to develop an IMP which would help to protect the economic viability of our district. And the biggest part of that would be not to dry up irrigated acres or as few as possible. And we worked down that process for several years. And the requirements that the DNR proposed to us was...at first glance, to get out of the overappropriated designation we have to come up with 7,700 acre-feet annually...that's every year. And then their best estimate to reach...to get out of fully appropriated, was a 20,000 acre-feet estimate. We worked down that road using tools like cooperating with irrigation districts within our district...surface water irrigation districts, cooperating with Central Platte NRD which had some water that they would sell us, the J-2 project, which is ongoing, nonirrigated, certified ground acres within the Twin Platte NRD that we could take credit for, because they weren't being irrigated, conservation tillage measures and other options that affected...that could help to put water back into the river for state protected flows. At the time that the N-CORPE was proposed to us, we had come up with about 4,000 at most...it was actually under 4,000. And we were going to be under the gun by 2018, because some of our temporary purchases and arrangements were going to expire. So we were sitting looking at the possibility of buying into an N-CORPE property, roughly a fourth of which set in our district, set as far away from the river as we can get, and had three other NRDs interested in purchasing the other three-fourths of it. It was a marriage that came about very quickly, I will

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grant you that it was very fast. But it answered a lot of our problems. Primarily, because if you took the historic use off of those acres in the 16,000 acre range, it was going to provide with a one-fourth ownership about exactly what we needed to remain compliant with LB962. So we moved forward there, because our options are ugly. Our options, rather than drying up the 5,400 irrigated acres in our portion of N-CORPE, we were looking at just to get back to...I'm sorry, to correct our overappropriated, we were looking at drying up 48,000 acres, 48,000 acres right up and down the Platte Valley, some of the most productive ground in the state. To get our way back to the DNR's estimate of 20,000 acre-feet, we were going to dry up 144,000 acres up and down the Platte Valley. So faced with those options, moving forward with a marriage with three other NRDs made a lot of sense to us, because we thought it was localized impact and we could try to manage our way out of it. I hope that these comments show how we got into it from the Platte side. It is two different river basins. We don't have a compact, we've got a program. We've got different issues, but we are committed, as a good marriage would, committed to work things out as we move forward. I will make one comment that the N-CORPE policy is to have no long-term depletions, in that, we recognize the fact that long-term depletions affect my grandkids and their grandkids. And we cannot allow mining long-term of that farm. And that is still the stated goal of all the people involved. I would answer questions if you have any. [LR323]

SENATOR SCHILZ: Thank you, Mr. Wahlgren. Senator Williams. [LR323]

SENATOR WILLIAMS: Thank you. Joe, thanks for being here, and thanks for your continued support of water and agriculture in our state. There has been a comment made, and I think it's been dispelled, but I want to hear it from you that the N-CORPE project is taking Platte Water Basin water and shipping it south. Can you address that for me. [LR323]

JOE WAHLGREN: Can I use farmer math? [LR323]

SENATOR WILLIAMS: Yes. [LR323]

JOE WAHLGREN: I guess, depending on what topographical line you look at on any map, most of it is in the Republican Basin. Now, there is an arbitrary line drawn by somebody in the 1970s that says the Twin Platte stops here and the Middle Republican starts there. That line is further

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into the farm than the actual boundary of the two basins are. So if you take the NRD boundary, you could say because we're only getting 25 percent of the water, but perhaps 45 percent of the district of that farm...45 percent of that farm is in our district, then you could say that we're losing water. But I think you'd have to have a lot of faith in some arbitrary line drawn on a map in 1972. [LR323]

SENATOR WILLIAMS: Based on the line that most of us have seen on the map, with six wells being in the northern part...the Platte River part, is that where you'd feel comfortable? [LR323]

JOE WAHLGREN: Not the actual wells, but the actual...I believe the fields. The old well is part of the farm if you follow what the...I think it's a USGS map, shows most of that area in the Republican Basin. [LR323]

SENATOR WILLIAMS: Thank you. [LR323]

SENATOR SCHILZ: Thank you, Senator Williams. Any other questions? Thank you very much, I appreciate it. Next testifier. Good afternoon. [LR323]

AMY SVOBODA: Good afternoon. My name is Amy Svoboda, S-v-o-b-o-d-a. I'm from Lincoln, Nebraska, now, but my...and I'm an attorney specializing in water and natural resource law. But I'm here today as one of my family members. We have a farmland in the Upper Republican in the Twin Platte NRD and we've comply with regulations ever since they...what 25 years or so with the Upper Republican. And I want to talk about the experience we've had there and how it relates to the N-CORPE project. When we wanted to transfer water from property to another...to over land, we had to go to the NRD Upper Republican and ask for it. And we had to give them information about how much water, and where the water was going to go, where the water is coming from. And then there was a hearing, and at the hearing, they decided whether we could or not. The hearing, we presented testimony, and other people in the community could give testimony. And matter of fact, every person who wants to transfer water over land is required by the Middle Republican and the Twin Plattes...well, actually all the NRD districts. Any entity has to, every city has to, North Platte has to, McCook has to. But what happened? N-CORPE is a person under the law. N-CORPE is an entity, you know, created by the other four entities. Did

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they go to the Twin Platte or the Upper Republican and ask for a permit to, you know, to transfer water over land? If I remember the correct amounts, they transferred 60,000 square feet over 7 miles before they put it in the Upper Republican. They didn't. And if they would have, if they would have followed the law, they would have had to have a hearing, they would have had the information that numerous people today at this session has asked for. You know, studies, saying how much water, when the water was going to go in there, and what the environmental effects are, whether there was going to be flooding, whether it was going to affect...particularly the surrounding landowners, the environmental concerns, and there's one more thing I have to remember...the seepage and evaporation...all those things can be information that should go before the individual NRDs, before they give a permit...permits required. In addition, the state of Nebraska has several laws if a person, and N-CORPE is a person under the law, wants to conduct water in to a river, they have to get a permit from DNR. And that wasn't done. And similarly if you want...if a person or entity wants to send water to another state, they're supposed to get a permit from the DNR. You might consider this as, you know, so called water under the bridge or horses out of the barn, but really, they still don't have those permits. And there's still lots of unanswered questions. And I submit that, you know, that that would be one of the things that should be...that should happen. And then...basically what I'm talking about, is a lot like what other people talked about. We have a public process here. We're not...you know, N-CORPE, even though it's an interlocal agreement, it's governmental. And I know there was a feeling that there was a necessity to move fast, but we need to comply with the laws, we have to allow the public the proper amount of input on such important and expensive projects. One of the things I haven't heard all day is the enormity of this project...the cost. I understand it's a \$120 million project, you know, just in the bond and the equipment, etcetera, etcetera, but they haven't even talked about the interest with...should add another \$800,000, meaning that it's a \$200 million project. To me, isn't that the biggest project that's in western Nebraska for the number of years and is going to be? And yet, you know, we've had no public hearing on the specifics, on the plan, you know, on what is supposed to have been happening. And I think that's really...you know, it's...process is important to public involvement...is important. Similarly, I've had...you know, when a member of my family was trying to get information early on, we went through the freedom of information request with the Upper Republican. I mean, that's the only place, at that point, that had, you know, good contact And we had to go to the Attorney General to finally get the information. And I understand there hasn't been an audit. A \$200 million project and there

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hasn't been an audit? I'm not sure whether the Legislature has done anything about this...that or is going to, but that would be certainly a place. A suggestion is made for more DNR involvement, and I'm not necessarily...I'm not saying I have the answers, but I'm not necessarily thinking that that's a solution here. Because I think...you know, we have really good people on our NRDs that work really hard, and I have...it's my perception that there's been more pressure from DNR on, you know, on the good members of the NRD to focus so directly on, you know, the compact. But there's other considerations like, for example, the beautiful...I mean the intricate structure that the NRDs have corrected...have developed to fulfill the Ground Water Management and Protection Act. And I don't think that should be destroyed just because we had...we have you know, a few years of extreme drought, which we needed to get a project through. So I haven't necessarily given you the solutions here, but you know, I just wanted to point out that the problem isn't necessarily...we have laws that would have allowed a public process that, you know, could have really enhanced, I think...and still can enhance the outcome. So maybe with the process it happens, because every year they're going to be transferring water, and so every year, the laws can apply. And I really appreciate...I guess in conclusion, that the committee has held this hearing and, you know, asking for more information, because it's really beneficial to us all. [LR323]

SENATOR SCHILZ: Thank you, Ms. Svoboda. Any questions? Senator Groene. [LR323]

SENATOR GROENE: Ma'am, did you say you were a water attorney or... [LR323]

AMY SVOBODA: Yes. [LR323]

SENATOR GROENE: You do understand why the local NRDs are in such economic pressure? [LR323]

AMY SVOBODA: I do. I mean, I feel it... [LR323]

SENATOR GROENE: I mean that we all have that. We've heard it over and over again that we're so worried about the economic pressure that we're doing N-CORPE type situations. To answer your question, we did pass a bill. It came through the Government Committee this year, that the

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state Auditor can audit interlocal agreements related to other...it went into effect August 27. If you're really concerned, and with your background, you can call the state Auditor and you can request an audit. It's a new law. Before, only the county could be audited or the city could be audited. Once the money left them to an interlocal agreement, they could not audit them. They can do that now. So coming from a person of your profession, it might be the right person to ask (inaudible) to it. [LR323]

AMY SVOBODA: Good job, Legislators. [LR323]

SENATOR SCHILZ: Any other questions? Seeing none, thank you very much for your testimony. Further testimony? Good afternoon. [LR323]

DAN SMITH: Good afternoon, Senator Schilz, members of the committee. My name is Dan Smith, D-a-n S-m-i-t-h. I've been retired for almost two years now, but I was the manager of the Middle Republican Natural Resources District when the N-CORPE project started. And I guess I just want to say the only thing the N-CORPE project does is ensure that Nebraska can stay in compliance with the Republican River Compact. That by itself is quite a little. That's important to people of the Republican River Basin, it's important to the people of the state of Nebraska. What impact N-CORPE had on the special master Kayatta or the Supreme Court decision, we can only guess, but I think it had to have a positive impact. That recommendation to the Supreme Court and the Supreme Court's decision was favorable to Nebraska. We came out with a lot of good things. Why is N-CORPE in Lincoln County? It's already been touched on a couple times. We had the opportunity to pick up a large enough tract of ground that was going to meet the need that existed for augmentation. We had the opportunity to share the costs in that project with the Twin Platte NRD, so we have a project that could benefit both the Platte and the Republican River Basin. It was the ideal location: a minimum amount of pipe needed to get it to a flowing stream, where we could put in it the Republican River System and a relatively short distance for the Platte districts to get it back to the river on that side. Yeah, there were a lot of problems associated along the way. But we were...those were administrative, mainly. They weren't a flaw in what we were doing. We have studied the Republican River Basin until it ought to be just about wore out. Augmentation was studied by Miller Engineering out of Kearney--a phase one to phase two project. One of the sites selected...proposed in his evaluation was very near the actual

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N-CORPE site. He and that study looked at them on a smaller scale. Those studies were made available to the districts...I know Mr. Miller came to a board meeting and made a presentation after phase two was completed. We even talked to the city of Hastings with some of the remediation water there...of possibly putting that into the Blue River System. Working it on through, benefiting the compact on that river and trying to get it down into the Republican then, at the bottom end of the Blue Basin. So there were a lot of things that we looked at and studied and planned. When this property came up for sale, it was the opportunity to move. We had to move relatively quick, but to move on a project that could do what we needed the Republican River Basin. Far as taxes goes, I was probably one of the people that...an official told me we were going to pay those taxes. Yeah, we fully intended to, right up to the point I think where we found out it's sort of illegal. Now, if the committee wants to look at a flaw there, maybe it's within legislation that might be needed. But I guess, if you were to look at in lieu of type taxes associated with a similar type project, you're going to probably run into a lot of cities, counties, all other subdivisions are probably going to object to having to do that. But, yeah, we fully intended to try...now we knew we weren't going to be able to pay irrigated taxes forever. We talked about scaling it down and getting it back to grassland rates, which it is now. But it's unfortunate we weren't able to do that, but at the same time, I'm sure the boards look at the issue of whether or not they do what they perceived was needed or do what's not allowed by the law. And I'm sure most of the boards would rather comply with the laws that we have on the books. So there are things that could be changed that would make the project work easier, but I'm pleased with what we were able to do with the N-CORPE project, with the Rock Creek Project. We've got Nebraska in compliance. Now we can back off, address these other issues, not side issues, but other issues with the relative stability that we have now. We don't have to cause angst and concern with our producers of what's my allocation going to be next year? Is it going to be 6 inches, is it going to be 10 inches, will I have any...we're looking at water restrictions...or the districts have looked at water restrictions all along. But now we can back up, look at some of those issues associated with the surface water system, try to work out agreements...need to work with the bureau. We need to be able to put a little bit of water in a reservoir in a good year. Save it, then release it when we get a dry year...release it when it's timely. There's so many things that can be done with augmentation projects in place. And now the districts have the stability and allocation...the stability and turmoil across the district that I think they can get it done. I'm confident that the districts can get it done. Thank you. [LR323]

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SENATOR SCHILZ: Thank you. Any questions? [LR323]

SENATOR GROENE: Couple of them. [LR323]

SENATOR SCHILZ: Senator Groene. [LR323]

SENATOR GROENE: You said we were now in compliance, so next year we won't have to pump? [LR323]

DAN SMITH: I didn't say that and I don't know. The compact accounting is such a God-awful process and you never know where you're at until the end of the year. We can make a forecast, we can guess. But yes, if we need to pump then we should look at that. Do we need to pump 60,000 acre-feet every year? No. I don't foresee that happening at all. 2012 and 2013 were kind of a unique situation...doesn't mean it won't happen again. And if it does, we've got the system that's got the capacity to do it. Will we have an impact on ground water levels? Yes. We've got the benefit of recharge to bring those back. [LR323]

SENATOR GROENE: Another question. You're familiar through your occupation with water usage rights versus the land. Do you see any reason why N-CORPE needs to maintain ownership of those 19,000 acres? They already sold two-quarters and kept their water rights. Why do they need to keep the other 19,000? [LR323]

DAN SMITH: There is a possibility on...what was the Kayson (phonetic)...and keep in mind, I'm out of the system now, sir. But if there was a possibility of looking at the Kayson (phonetic) farm site, the south part of that purchase is relatively close to the Red Willow. Possibly...I know initially we talked at looking at maybe putting in another pipeline where you could take some of that water to the Red Willow. If that's part of the discussion, I don't know, sir. Like I say, I'm two years out of the loop. [LR323]

SENATOR GROENE: But you could keep the water rights just like an oil well or water usage rights in Nebraska, you don't have water rights, and not own the land around it. [LR323]

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DAN SMITH: It's questionable. I think what the district can do is prohibit those grounds from being developed again. I'm not sure what happens. I understand that the rights are questionable. [LR323]

SENATOR GROENE: What I'm asking is...I guess do you know of any statutes that would prevent them, right now, from selling that land and keeping the water usage rights? [LR323]

DAN SMITH: No, I don't. [LR323]

SENATOR GROENE: And I've heard they need collateral for the loan, but any revenue bond, as long as you've got the taxes to back it, I don't think you need the land. That excuse doesn't sound pertinent to me. [LR323]

DAN SMITH: Yeah, but... [LR323]

SENATOR GROENE: Anyway, I just...I knew you had a background and thought you could answer. Thank you. [LR323]

DAN SMITH: Okay. Sure. [LR323]

SENATOR SCHILZ: Thank you, Senator Groene. Any other questions? Thank you for your testimony. [LR323]

DAN SMITH: Thank you. [LR323]

SENATOR SCHILZ: Good afternoon. [LR323]

KEVIN FORNOFF: Good afternoon, Senator Schilz, all the committee members. I'm Kevin Fornoff, K-e-v-i-n F-o-r-n-o-f-f. I'm a farmer/rancher from Hayes County...irrigator. I'm currently on the Middle Republican NRD board. I'm on Southwest Public Power Board, and I'm currently the chairman of the Natural Resources Commission. So I'm in favor of the N-CORPE project, I think it's done a lot for the Republican Basin. I don't think it's a cure-all, but it's not

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planned to be run every year and it's a good insurance policy. I think we all carry insurance: life or health or...and it helps us get by in time of need. So I guess that...most all of the other testimony about what I said, so. Then...the commission just got the rules approved by the state, so we'd be able to take applications for some of that \$30 million that's available in the water sustainability task force. So, if anybody has any questions. [LR323]

SENATOR SCHILZ: Thank you, sir. Any questions? Got off easy. Thank you very much. [LR323]

KEVIN FORNOFF: Yeah, (inaudible) Senator Schilz. [LR323]

SENATOR SCHILZ: Further testimony? Good afternoon. [LR323]

GORDON DUVAL: Hello, Senator...representative. I'm Gordon Duval, G-o-r-d-o-n D-u-v-a-l. I live five miles up the creek from Wellfleet. I guess what I have not heard anybody address so far is where they're going to shut that water off. How low are they going to let it go? They told us way back in 2013 that they were not going to mine the water. So far, it looks to me as though they have, because they have lowered our water level. And I would say that a good indicator of when they should shut it off is when it starts to affect the streamflow because that's one thing that we do not want to lose. Other places have lost their streamflow and you lose a whole ecosystem when you do so. That...it goes toward our children, our grandchildren, everybody in between. They've not...I've asked the question before of what would be the indicator of where they would shut the water off...it never was addressed. And there's another issue here, the way they ran this thing through. The owners of the land on the creek that was going to go over were not contacted prior to a January meeting when...I was at the meeting and they said, well, all the...go ahead, everybody has been contacted, so everything is going to go ahead and go through. Dwight Miller wasn't contacted, I wasn't contacted, Goeke's were not contacted. And Sellers, this is a block of about 8 miles, he was contacted 12 hours before the meeting. Now you get below Wellfleet Lake, I can't name a person who was contacted on the creek before they put it over it...or was going to put the tubes in, excuse me. If you're going to implement a job like this, you need to get some public comment and at least tell people what you're doing to them before you do it to them. I guess that's it. [LR323]

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SENATOR SCHILZ: Thank you, sir. Any questions? [LR323]

SENATOR GROENE: Just one quick one. Are you on the Medicine? [LR323]

GORDON DUVALL: Yes, I am. [LR323]

SENATOR GROENE: Have you noticed any flow depletion after they pumped it off, later in this summer? [LR323]

GORDON DUVALL: Before they started pumping...this was in May of 2014, the streamflow at Mike Covert's was 7.305 cubic feet per second. I don't know what it is now. I tried to get the people who did the streamflow for me then to do it again, but they said it was the DNR's responsibility. Now the DNR says that they got sites on the computer where you can access that. I never accessed cubic feet per second. I can tell you from being there for 64 years, it's running about half of what it was before they started pumping. [LR323]

SENATOR GROENE: What about historically at this time of year? Middle of summer? [LR323]

GORDON DUVALL: Historically at this time of the year it would run twice as much as it is now. When we took the measurement, this was after they had quit pumping for close to a year and it was in the spring of the year, when it's supposed to be high. It was still lower than it...because of the extended drought we had just been through. Southwest Nebraska, I'm sure you know, was in an extended period of drought and our streambeds were comparable to what they were in 1930 when my family first got there. [LR323]

SENATOR GROENE: Thank you. [LR323]

SENATOR SCHILZ: Any other questions? Seeing none. [LR323]

GORDON DUVALL: Thank you, sir. [LR323]

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SENATOR SCHILZ: Thank you very much for your testimony, I appreciate it. Do we have any other testifiers who wish to speak? Going once. Okay, we do have a few letters to be read into the record: Manuela Wolf, Harlan County Health Systems from Alma. A letter from Bill White, the Austin Company, Inc. in Milford. Dean Large from Wauneta, and Josh Friesen from Wallace. And last call, any other testifiers? Seeing none, I want to thank everybody very much for being here today. Thank you for all your testimonies. Thank you for your patience and being able to sit through the lack of being able to hear. So we appreciate it very much. Have a great afternoon. Thank you. [LR323]