

BEFORE THE DIRECTORS OF THE
UPPER REPUBLICAN NATURAL RESOURCES DISTRICT

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UPPER REPUBLICAN NATURAL RESOURCES) TRANSCRIPT OF
DISTRICT PUBLIC HEARING) HEARING I OF II
)
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HEARING HELD this March 3, 2005, at 7:00 p.m. MT at
the Senior Center, 1000 Wellington Street, Imperial,
Nebraska with TERRY SAVAGE presiding as HEARING OFFICER.

Members of the Board of Directors; Joel Burke,
Attorney at Law; Tom Davidson, Attorney at Law;
Jasper Fanning, manager; Tina Kurtz, Mike Thompson,
and Brad Edgerton of Department of Natural Resources;
and general public present.

MEMBERS OF THE BOARD OF DIRECTORS PRESENT:

KERRY BERNHARDT TOM TERRYBERRY
GREG PELSTER KENNY OWENS
TERRY MARTIN MICHAEL STRAND
DEAN LARGE DON GENGENBACH
TIM SCHILKE

C E R T I F I C A T E

STATE OF NEBRASKA)
)
COUNTY OF KEITH,)

I, Tania M. Fox, Court Reporter and General
Notary Public, do hereby certify that the within and
following transcript is a correct and complete
transcription of the evidence requested to be transcribed
by me taken from the proceedings at the time and place
set forth herein in the before-captioned case.

This transcript consists of the following:

VOLUME I - TRANSCRIPT (PAGES 1 - 17 INCLUSIVE)
EXHIBITS (1 THROUGH 16 INCLUSIVE)

Dated this 15th day of March, 2005.

Tania M. Fox
General Notary Public

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1 PROCEEDINGS
2 (The hearing in this matter commenced at 7:00
3 p.m. on this 3d day of April, 2005: Exhibit Nos. 1
4 through 15 marked for identification.)
5 CHAIRMAN PELSTER: Good Evening. Thank
6 you for coming tonight, and I want to welcome you to our
7 hearing this evening. I'll start with the introductions.
8 I am Greg Pelster from Perkins County. I reside south of
9 Elsie in Subdistrict 10. I am the Board Chairman. Will
10 each of the Board members stand and introduce themselves,
11 please.
12 MR. SCHILKE: I'm Tim Schilke. I reside
13 in Subdistrict 4 and I live south of Lamar.
14 MR. DEAN LARGE: I'm Dean Large,
15 Subdistrict 6. I live north of Wauneta.
16 MR. TERRY MARTIN: Terry Martin,
17 Subdistrict 2, central Dundy County.
18 MR. KENNY OWENS: Kenny Owens, Imperial,
19 Subdistrict 5.
20 MR. TOM TERRYBERRY: Tom Terryberry,
21 Subdistrict 7, Imperial.
22 MR. KERRY BERNHARDT: Kerry Bernhardt,
23 Subdistrict 3, southwest of Champion.
24 MR. BURKE: Joel Burke, legal counsel.
25 MR. DAVIDSON: Tom Davidson, legal

1 counsel.
 2 HEARING OFFICER: Terry Savage from
 3 Imperial. I'll be the hearing officer.
 4 MR. FANNING: Jasper Fanning, manager.
 5 MR. EDGELTON: I'm Brad Edgerton with the
 6 Department of Natural Resources out of Cambridge.
 7 TINA KURTZ: Tina Kurtz, Department of
 8 Natural Resources out of Lincoln.
 9 MR. THOMPSON: I'm Mike Thompson, and I'm
 10 also with the DNR out of Lincoln.
 11 CHAIRMAN PELSTER: We have a court
 12 reporter, Tania Fox, is here this evening. She'll be
 13 taking down what all is said.
 14 We're here to conduct two public hearings.
 15 The first public hearing is on the consideration of the
 16 scientific data that was comprised and accumulated in the
 17 development of the IMP. At the end of that hearing I'll
 18 entertain a motion from the Board to either reject or
 19 approve that data set as an order. We'll act upon that
 20 motion.
 21 And then we'll go into the second public
 22 hearing which is to receive evidence relative to the
 23 adoption of the IMP, at a future date, we anticipate that
 24 this would be at the May regular meeting providing we
 25 meet all the time standards and everything.

1 At this time I'll introduce Terry Savage,
 2 who is the hearing officer for tonight's hearings. And
 3 he'll conduct the business. Thank you, Terry.
 4 HEARING OFFICER: Thank you, Greg. I look
 5 out and I see a lot of familiar faces. As most of you
 6 know I've been hearing officer for about 25 to 30 years.
 7 But I've been out of commission for a couple of years.
 8 I'm glad to be back with you.
 9 As Greg said we're going to do two public
 10 hearings tonight. The first one is to consider adopting
 11 a list of the types of data, scientific and otherwise,
 12 that would be considered by the Board when they
 13 deliberate on an IMP.
 14 The second hearing then is going to be to
 15 receive actual evidence from you that the Board can take
 16 and deliberate on in making their discussion as to what
 17 to do in regards to an IMP.
 18 We have our court reporter. She's going
 19 to take down every word that is said. This is very
 20 important because we're doing a two-fold project tonight,
 21 so to speak.
 22 One, we're making a record that the Board
 23 can use to deliberate upon. Secondly, we're making a
 24 record that could be used for judicial review. And this
 25 could be either instituted by the Board or it could be

1 instituted by an interested party. And the Court cannot
 2 consider what we thought, casual conversations, that sort
 3 of thing. It has to be in this record before it can be
 4 properly utilized.
 5 I'd like to get, at this time, an idea of
 6 how many people intend to testify. If you know that you
 7 are if you could raise your hand for me.
 8 (Public responds.)
 9 HEARING OFFICER: I'm seeing probably less
 10 than ten hands at the present time. So we won't put any
 11 time limitations on testimony. But if we need to, we
 12 will do that later on tonight so we can all get home at a
 13 decent hour.
 14 Well, let's get some general guidelines
 15 here for those of you upfront. When you want to testify
 16 you'll need to come forward and sign in on the tablet
 17 there on that table. Use the mic if you think you need
 18 to. And you might because you're going to be facing away
 19 from the audience and you're also going to be facing away
 20 from the court reporter.
 21 By the way, can you all hear me? I'll try
 22 to speak a little louder because there is only one mic
 23 and we're going to let the testifying people use that mic
 24 that's up here at this table.
 25 But you'll be facing away from the court

1 reporter. So it's important that you speak slowly enough
 2 and use the mic so that she can pick up what you say and
 3 get it into the record.
 4 After you sign in you can address the
 5 Board. If you have any documents or material items that
 6 you want to be placed in the record just bring them
 7 forward to me and I will mark them. And I will receive
 8 them, if they appear to be relevant and not repetitive or
 9 redundant.
 10 Now, that's the same for oral testimony.
 11 The Board wants to hear everything that you have to say
 12 on these subjects, but it won't do us any good to hear it
 13 multiple times.
 14 Now, I don't say this to discourage
 15 anybody from testifying. But simply because it's an
 16 evening hearing and we're going to want to try to move
 17 forward and hear everything you have to say, but
 18 hopefully only hear it once or twice at the most.
 19 We do have a protocol for these hearings
 20 that we've used for many, many, many years. And we take
 21 testimony in an order. And that order is as follows. We
 22 would hear from state and local -- that's state and
 23 federal agencies first. We would hear from other
 24 governmental subdivisions second. We would hear from NRD
 25 staff and Board third. And fourth we would hear from any

1 other person.

2 Now, I want to reiterate one more thing
3 before we get started, and that is our purpose is to take
4 testimony from you. Now, Board members may choose to
5 testify. And that's their right to do so. But we don't
6 have the time, and this is not the proper forum for them
7 to address you. This is a time for you to address the
8 Board.

9 So I will -- We've already got an open
10 hearing because we're taking the record. So we'll start
11 now and we'll take testimony on the first subject, which
12 is the list, so to speak, of those types of data and
13 material and evidence that will be considered by the
14 Board in deliberating on the integrated management plan.
15 So don't hesitate to be the first one to come forward if
16 you have anything on that subject.

17 Greg, come on forward and come up and have
18 a seat. I am going to take a minute of your time though
19 as long as you're signing in. I want to remind you that
20 we have premarked some exhibits. For this hearing I have
21 marked 15 exhibits, 1 through 4 are the publisher's
22 affidavits that were relative to the stakeholders
23 meetings as they called it. Those have been received.

24 I've got a proposed Order 27 that's
25 available on the table. That's the list I've been

1 referring to. I've got the -- I've got -- I've also
2 received as Exhibit 6 an earlier list of which the Order
3 27 was based. I've got the Department of Natural
4 Resources list. By the way the statutes of Nebraska
5 required this Board to adopt a similar list of what's
6 been adopted by the NDNR.

7 I have received an advertisement that was
8 published regarding the Stakeholders meeting. And I have
9 received an envelope including three audiotapes of
10 material that was presented at that Stakeholders meeting.

11 I have marked and received four
12 publisher's affidavits of the published notice of this
13 hearing. An, lastly, I've received at this time Exhibit
14 15 which is an Advertisement regarding the -- the public
15 meeting, the public information meeting that was held.

16 So, Greg, you can give us your testimony
17 now if you wish. You will need to tell the court
18 reporter your name and spell it if she indicates she
19 needs spellings.

20 MR. GREG SMITH: My name is Greg Smith. I
21 am from Imperial, Nebraska. I am representing Water
22 Claim on this particular issue. Gentlemen, I want to
23 thank you for the opportunity to talk with you right now.
24 This hearing is regarding the information to be
25 considered in the development of an integrated management

1 plan:

2 As I understand this integrated management
3 plan is already completed. It has been negotiated in
4 executive session with the DNR already. And now we are
5 having the hearing to decide on what things should be
6 considered in the development of an integrated management
7 plan. I think if the plan is already done it's a little
8 late to have a hearing regarding what's supposed to be
9 considered.

10 But, nevertheless, if you're still
11 considering these facts, I want to ask a couple questions
12 on Item No. 4. You are to consider as one of the things
13 to consider is the local recharge characteristics and
14 rates from any sources, if available. I believe these
15 are available. I do not believe that this has been done.
16 Item No. 6, the crop water needs within
17 the proposed integrated management plan area, I believe
18 that this has not been done. I don't think that there is
19 a definite estimate on schedule here or on record here of
20 what corn, for example, needs on an annual basis in a dry
21 year and wet year.

22 Item No. 10, the availability of
23 supplemental water supplies, including the opportunity
24 for groundwater recharge within the proposed integrated
25 management plan area. I don't believe that this has yet

1 been studied even though there is potential for bringing
2 supplemental water from the Platte River Basin.

3 And even though that has been advertised
4 and presented by our organization, and has been even
5 passed on unanimous vote by this Board to at least
6 consider that. And I think if you're going to consider
7 it that it at least warrants a committee on the subject,
8 and perhaps a little bit of money to investigate the
9 feasibility of that project, but that has not been done
10 to this date.

11 Number 12 the opportunity to integrate and
12 coordinate the use of water from different sources of
13 supply within the proposed plan, that goes along with No.
14 10.

15 And No. 14, the relative economic value of
16 different uses of groundwater proposed. I personally
17 believe that for every inch of water that we do not use
18 it represents probably long-term about \$1,000 worth per
19 acre-foot of economic value beginning right here in our
20 own district and continuing on up the food chain.

21 I don't see that any research or study has
22 been done yet to discover how much economic value our
23 water actually has and how much we would lose if you do
24 cut our water uses. Thank you for your time.

25 HEARING OFFICER: Greg, do you have any

1 published material or printed material?
 2 MR. GREG SMITH: No, I do not.
 3 HEARING OFFICER: Thank you very much.
 4 MR. TAB MARTIN: Terry, can I ask a
 5 question? Those people that come up like Greg and talk,
 6 can any of us that feel that he is representing our own
 7 thoughts is it okay that we stand up or applaud him or
 8 show so that the Board members don't think he is the only
 9 one that is thinking that?
 10 HEARING OFFICER: Well, the problem is and
 11 we talked about the record, and that kind of thing won't
 12 show in the record.
 13 MR. TAB MARTIN: Uh-huh, but it would be a
 14 record in their mind.
 15 HEARING OFFICER: That's fine. If that
 16 would be the case, if you can figure out some way to
 17 demonstrate that, that's fine. But it will not be part
 18 of the record because there is no way to get it in the
 19 record. But that's fine.
 20 MR. TAB MARTIN: Okay. Anybody that
 21 thinks that Greg and some of these things that we're
 22 going to discuss tonight is things that need to be placed
 23 in the mind of these Board members, I ask that you stand
 24 up now so that they know that you're thinking along the
 25 same lines.

1 (Public responds.)
 2 HEARING OFFICER: Okay. That's good. And
 3 another thing I did not mention yet but would before the
 4 evening is over is this record of the next hearing,
 5 that's on the IMP itself, that will be held open for
 6 seven days. And we will receive documentary evidence
 7 during that period, just as has been done by the NRD for
 8 many, many years.
 9 And I know in past years statements have
 10 been put together and then signatures affixed to them.
 11 And the Board has received those. And they're part --
 12 they become part of this record I keep referring to. So
 13 there's another alternative. But nobody is going to tell
 14 you you can't stand up, you know, if a witness says
 15 something you particularly agree with, feel free.
 16 MR. TAB MARTIN: Thank you.
 17 HEARING OFFICER: Does anybody else wish
 18 to testify at this first hearing?
 19 MR. HAL WALKER: My name is Hal Walker.
 20 I'm with Nebraska Game & Parks.
 21 (Brief interruption.)
 22 MR. HAL WALKER: My name is Hal Walker.
 23 I'm with Nebraska Game & Parks Commission. I'm from Rock
 24 Creek Hatchery in Parks, Nebraska. I would request that
 25 the Board accept the U.S.G.S. historical streamflow data

1 and trends that have been submitted at the previous
 2 meetings as well as the Bureau Reclamation and Reservoir
 3 inflow data and the participation data.
 4 And I would also ask the Board to include
 5 the stream flow data -- Okay. I'm sorry; I would ask
 6 again that the Board include the Rock Creek Hatchery MBT
 7 data on effluent monitoring which is a 30-year record of
 8 stream flow recorded weekly at the hatchery. I would
 9 also ask that you include the N.G.P.C. data on economic
 10 impacts and user data that Darrel Eichnar has submitted.
 11 One thing that I didn't include the other
 12 night which I would like to add to the record, Mr. Owens
 13 asked what I thought they should consider.
 14 First, I would like to go on record of
 15 saying that we oppose the 13 1/2 inch allocation. And
 16 Mr. Owens asked what I thought we ought to have for an
 17 allocation and I said 6 inch allocation.
 18 That is somewhat supported by Terry
 19 Martin's brother Dr. Dale Martin from UNL who stated that
 20 the January 12 NRCS meeting here in Imperial that 6 inch
 21 allocation in Benkelman could produce 180 bushel corn.
 22 And in my way of thinking if we could get
 23 180 bushel corn out of 6 inches that we could get double
 24 the life of the aquifer compared to 13 1/2 allocation.
 25 Darrel, did you have anything else? We

1 would also present data of our power point presentation
 2 for --
 3 HEARING OFFICER: Okay. Did you hear that
 4 last -- Do you want to have that -- Are you going to just
 5 show that to people who wants to stay later, or do you
 6 want that part of the record?
 7 MR. HAL WALKER: We would like to present
 8 this power point presentation at the end of the other
 9 meeting, if that's all right.
 10 HEARING OFFICER: Okay. Thank you.
 11 MR. DARREL EICHNAR: Can we do both?
 12 HEARING OFFICER: Yes, you may. You can
 13 put that in the record now and I'll give you permission,
 14 so to speak, to withdraw it to show it to people who want
 15 to stay for a few minutes or however long it takes. And
 16 then we'll put it back in the record. So do you have
 17 that with you?
 18 Now, to refresh you just a little bit, now
 19 this testimony that we're trying to receive at this point
 20 is on this list that we're calling -- I'm calling it a
 21 list, maybe nobody else does. The things that -- Here,
 22 I'll mark yours -- the list of -- the types of data and
 23 information and material that will be considered by the
 24 Board in its deliberations.
 25 Keep in mind we're going to have a second

1 hearing here momentarily on the IMP itself. Does anybody
 2 else wish to testify on the list? Okay. Apparently not.
 3 Keep in mind that obviously we're
 4 expecting testimony at the second hearing. So I'm going
 5 to mark this power point presentation from Game & Parks
 6 as Exhibit 16. And we're going to receive it and permit
 7 its withdraw for use in this room after the second
 8 hearing for anyone who wishes to stay and see the
 9 presentation.

(Exhibit No. 16 marked for
 identification.)

12 HEARING OFFICER: I think what we'll do at
 13 this point is close the record for this first hearing.

14 And we'll go off the record at this time.

(Hearing concluded at 7:25 p.m.)

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BEFORE THE DIRECTORS OF THE
 UPPER REPUBLICAN NATURAL RESOURCES DISTRICT

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 UPPER REPUBLICAN NATURAL RESOURCES) TRANSCRIPT OF
 DISTRICT PUBLIC HEARING) HEARING II OF II
)
x VOLUME I OF II

HEARING HELD this March 3, 2005, at 7:40 p.m. MT at
 the Senior Center, 1000 Wellington Street, Imperial,
 Nebraska with TERRY SAVAGE presiding as HEARING OFFICER.

Members of the Board of Directors; Joel Burke,
 Attorney at Law; Tom Davidson, Attorney at Law;
 Jasper Fanning, manager; Tina Kurtz, Mike Thompson,
 and Brad Edgerton of Department of Natural Resources;
 and general public present.

MEMBERS OF THE BOARD OF DIRECTORS PRESENT:

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 GREG FELSTER KENNY OWENS
 TERRY MARTIN MICHAEL STRAND
 DEAN LARGE DON GENGENBACH
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21a. DOCUMENT FROM IRRIGATION PROJECTS REORG COUNCIL	48	48	1 PROCEEDINGS
21b. LIST OF ENTITIES OF IRRIGATION PROJECTS REORG COUNCIL	48	48	2 (The hearing in this matter commenced at 7:40
22. LETTER FROM MARK WENDELL	50	50	3 p.m. on this 3d day of April, 2005. Exhibit Nos. 1
23. LETTER FROM BOB COLSON	74	74	4 through 7 marked for identification.)
24. LETTER FROM LESS SMITH	74	74	5 HEARING OFFICER: We'll open up the
25. LIST OF WITNESSES	74	74	6 record. And we are going to conduct the public hearing
26. LIST OF PUBLIC PRESENT	74	74	7 to consider the integrated management plan. I have
27. LETTER FROM JIM HAARBERG	74	74	8 marked before the hearing several exhibits, and we're
28. LETTER FROM DARLENE MORELAND	74	74	9 going to receive those.
29. LETTER FROM BUREAU OF RECLAMATION	74	74	10 Exhibit 1 is a book of all of the prior
30. LETTER FROM DOUG BRANT	74	74	11 Orders of Rules and Regulations for Groundwater Control
31. LETTER FROM GERALD COATES	74	74	12 in the Upper Republican Natural Resources District.
32. LETTER FROM COCHRAN FAMILY	74	74	13 Those are orders of which I'm sure all of you are quite
33. LETTER FROM DOUG GASWICK	74	74	14 familiar. This is for historical use as well as for the
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37. LETTER FROM THOMAS WERBLOW	74	74	18 some with this hearing. I have marked and received a
38. LETTER FROM DEB FRASIER	74	74	19 draft of the IMP, as well as the materials that were
39. LETTERS TO EDITOR IN GRANT TRIBUNE BY KENNY OWENS	74	74	20 presented at the public information meeting.
40. TRANSCRIPT OF HEARING I	74	74	21 I've received a map showing the location
			22 of all the wells in the district, with a shading in of
			23 the areas which are referred to as quick response well
			24 areas. And I'm also at this time going to receive all of
			25 the exhibits that were offered at the public hearing that

<p style="text-align: center;">C E R T I F I C A T E</p> <p>STATE OF NEBRASKA)</p> <p style="text-align: center;">)</p> <p>COUNTY OF KEITH)</p> <p>I, Tania M. Fox, Court Reporter and General Notary Public, do hereby certify that the within and following transcript is a correct and complete transcription of the evidence requested to be transcribed by me taken from the proceedings at the time and place set forth herein in the before-captioned case.</p> <p>This transcript consists of the following: VOLUME I - TRANSCRIPT (PAGES 1 - 74 INCLUSIVE) VOLUME II - EXHIBITS. Dated this 15th day of March, 2005.</p> <p style="text-align: right;">_____ Tania M. Fox General Notary Public</p>	<p>1 was held on March 3, 2005, at 7 o'clock p.m. including</p> <p>2 the transcript of all the testimony.</p> <p>3 Again, just for this record we take the</p> <p>4 evidence in an order. State and Federal agencies, other</p> <p>5 governmental subdivisions, thirdly the Board and staff of</p> <p>6 the NRD, fourth general public.</p> <p>7 We will entertain your testimony at this</p> <p>8 time. This is on the subject of adoption, amendment, or</p> <p>9 rejection of an IMP. Come forward and sign in and tell</p> <p>10 us who you're representing, use the mic, spelling your</p> <p>11 name would probably be helpful for the court reporter.</p> <p>12 MS. ALICE JOHNS: My name is Alice Johns.</p> <p>13 I'm the area manager of the Bureau of Reclamation</p> <p>14 Nebraska-Kansas area office in Grand Island, Nebraska.</p> <p>15 I'd like to present oral testimony here before</p> <p>16 you tonight and thank you for the opportunity to do so.</p> <p>17 (Brief discussion off the record.)</p> <p>18 MS. ALICE JOHNS: Again, my name is Alice</p> <p>19 Johns, and I'm the area manager of Bureau of Reclamation</p> <p>20 Nebraska-Kansas area office. The main office is in Grand</p> <p>21 Island with a field office in McCook. Also here with me</p> <p>22 tonight are Steve Runshaugen our deputy area manager and</p> <p>23 Marv Swanda, who is the head of our McCook field office.</p> <p>24 The Nebraska-Kansas area office is responsible for</p> <p>25 reclamation projects located in Nebraska, Kansas, and</p>
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1 north eastern Colorado. The mission of the Bureau is to
2 manage, develop, and protect water and related resources
3 in an environmentally and economically sound manner in
4 the interest of the American public.

5 The reclamation program began in 1902 to
6 reclaim the arid west by developing irrigation projects.
7 The Nebraska-Kansas area office oversees 15 reservoirs,
8 seven of these are in the Republican River Basin. Of
9 those seven, four are located in Nebraska. Additionally,
10 reclamation administered irrigation water supply from
11 Harlan County Lake, which is a Core of Engineers
12 reservoir in the Republican Basin.

13 Following the dust bowl years of the 30s
14 and the devastating flood of 1935 the states sought
15 federal assistance in developing water supplies and flood
16 control for the basin. While investigations for water
17 projects were under way, reclamation requested that
18 Kansas, Nebraska, and Colorado negotiate a compact
19 allocating water supply among these states. Reclamation
20 anticipated that the individual states would protect the
21 water rights associated with the federal projects.

22 Between the late 1940s and 1960s nine
23 federal dams and reservoirs were constructed in the
24 Republican River Basin. Seven of those were reclamation
25 projects and two were core projects. Six irrigation

1 projects were also developed and irrigation districts
2 were formed to manage each of these projects. Each of
3 these irrigation districts presently receive irrigation
4 water from one or more of the Federal reservoirs in the
5 basin.

6 The total project acreage served by these
7 Federal projects is approximately 137,000 acres. The
8 Upper Republican Natural Resource District includes one
9 reclamation reservoir, Enders Reservoir. Frenchman
10 Valley Irrigation District and H&RW Irrigation District
11 receive their water supplies from Enders Reservoir and
12 from their natural flow rights.

13 Republican River inflows into Swanson Lake
14 are also impacted by activities of Upper Republican NRD.
15 These reservoirs serve the Frenchman Holdrege Irrigation
16 District. The Republican River Federal reservoirs also
17 provide significant recreation, fish, and wildlife and
18 flood control benefits to the area. The projects that
19 were constructed are now an integral part of the river
20 system and the allocation of water through each state.

21 Construction cost associated with the
22 Republican River Basin project -- reclamation project
23 totaled more than \$233,000,000. Construction costs
24 assigned to the irrigation function were over
25 \$139,000,000. Irrigation districts are responsible for

1 repaying a portion of the irrigation construction costs
2 of these projects. The cost not repaid by irrigation
3 districts are repaid by users of the Federal hydropower
4 as aid to irrigation.

5 Construction costs not assigned to the
6 irrigation function, the difference between 233,000,000
7 total cost and 139,000,000 irrigation cost are being paid
8 by the U.S. tax payers. The U.S. tax payers paid for the
9 construction cost assigned to the flood control,
10 recreation, and fish and wildlife benefits of the
11 project.

12 In Nebraska reclamation has storage rights
13 associated with Federal reservoirs as well as the storage
14 use rights to use the water to supplement the irrigation
15 district's natural flow rights.

16 The natural flow rights associated with
17 the federal projects in the NRD have priority dates that
18 vary from 1890 to 1954. The storage rights held by
19 reclamation vary in priority from 1946 to through 1960.

20 An increase in ground water wells in the
21 basin for irrigation development became particularly
22 evident around 1960 with a dramatic increase in wells
23 occurring between 1960 and 1980. During that time in
24 Nebraska 8,000 new irrigation wells were developed within
25 12 miles of a major stream in the Republican River Basin

1 above Hardy.

2 That time frame corresponds closely with a
3 noticeable decline in river flows throughout the basin.
4 Base flow of many of these streams also declined
5 providing a strong indication that there is a significant
6 aquifer-streamflow interaction.

7 These wells are likely intercepting
8 groundwater that formerly discharged into the stream or
9 they may be reversing the gradients to the streams,
10 thereby inducing streamflow into the aquifer.

11 The combined inflows to all of the seven
12 reservoirs above Harlan County Lake, a core project near
13 the Nebraska-Kansas State line, average only 309,400
14 acre-feet per year for the period 1984 through 2003.

15 By comparison the Definite Plan Reports
16 prepared for project planning purposes in the 1950s
17 showed that based on the historic records through the
18 early 1950s inflows were expected to average 662900
19 acre-feet per year.

20 In general, the inflows to all reservoirs
21 in the Republican Basin that serve reclamation projects
22 have declined at a significant rate since the projects
23 were first developed. In the Enders Reservoir this
24 decline has been most severe with inflows dropping from
25 around 60,000 acre-feet per year in the late 1950s to

<p>1 less than 5,000 acre-feet per year in 2004. 2 Reduced surface water supplies have caused 3 project water deliveries throughout the Basin to decline 4 over the last 40 years. Each irrigation district has 5 experienced a declining water supply which in turn has 6 caused a number of impacts including shortening of the 7 season that water can be delivered, changes in cropping 8 patterns, and in some years a reduction in total acres 9 irrigated.</p> <p>10 The total acres with project water have 11 essentially remained the same, while the amount of water 12 diverted and delivered to each acre has declined 13 steadily. In 2004 water deliveries to several canals 14 including the Culbertson Extension, Meeker-Driftwood, and 15 Bartley was zero.</p> <p>16 In conclusion depletions to stream flows 17 have resulted in reduced storage in Federal reservoirs as 18 well as less flows being available for direct flow 19 diversions into the canals that are an important part of 20 the Federal project. The reduced water deliveries have 21 reduced the economic benefits provided by the project.</p> <p>22 As a result users of federal hydropower 23 will pay for a greater portion of the irrigation 24 construction costs through aid-to-irrigation. Other 25 impacts associated with reduced stream flows include a</p>	<p>1 Upper Republican and establishing this integrated 2 management plan for the Upper Republican NRD is a vital 3 step in that process.</p> <p>4 Again, I thank you for the opportunity to 5 present this testimony here tonight for your 6 consideration. We also are sending more detailed written 7 testimony to your office, which includes specific 8 comments related to the proposed integrated management 9 plan. I have brought with me a copy of what also has 10 been sent to your office and will provide it to you.</p> <p>11 HEARING OFFICER: We'll mark that and we 12 will receive it. Is that the same as the remarks you 13 had?</p> <p>14 MS. ALICE JOHNS: No, it is not. This is 15 more detailed written testimony. It is the same as is 16 being sent to the Imperial, Nebraska, P.O. Box.</p> <p>17 HEARING OFFICER: Do you want your other 18 written material in the record?</p> <p>19 MS. ALICE JOHNS: No, it can just be the 20 oral. That's fine.</p> <p>21 HEARING OFFICER: We'll mark that. We'll 22 mark this as Exhibit 8, and we'll receive it. 23 (Exhibit No. 8 marked for identification.)</p> <p>24 HEARING OFFICER: The next person who 25 wishes to offer testimony feel free to come forward and</p>
<p>1 reduction in reservoir levels which reduces the 2 recreational and fish and wildlife benefits associated 3 with these projects.</p> <p>4 Sustained surface water inflows to the 5 Federal reservoirs provide, not only irrigation benefits, 6 but also significant recreation and fish and wildlife 7 benefits to the area. The water right priority dates 8 associated with the Federal project are prior to the 9 majority of the groundwater development occurred in the 10 basin; therefore, in areas of groundwater-surface water 11 interaction I would request that specific consideration 12 be given to surface water supplies for the Federal 13 projects when establishing long-term and water-short year 14 groundwater allocations.</p> <p>15 Sustaining a balance between water uses 16 and water supplies so that the economic viability, 17 social, and environmental health, safety and welfare of 18 the Republican River Basin can be achieved and maintained 19 for both the near-term and the long-term is the stated 20 purpose of integrated management plan for the NRD.</p> <p>21 Currently the system does not appear to be 22 in balance as indicated by the steady decline of inflows 23 in Enders Reservoir over the past 40 years.</p> <p>24 It will take time, considerable efforts 25 and perseverance to achieve a sustainable balance in the</p>	<p>1 take the table, sign in, tell us who you represent if 2 you're not speaking solely on your behalf, and the Board 3 will be happy to hear your testimony.</p> <p>4 MR. STEVE SMITH: First of all, my name is 5 Steve Smith with WaterClaim. First of all, I'd like to 6 compliment the Board on the things that I think it is 7 doing well. The protection of carryover and pooling are 8 essential to the ability of this area to raise a crop. 9 And I thank the negotiating committee for protecting 10 those two key critical concepts.</p> <p>11 I also thank the Board for supporting the 12 importing of water into the Basin as part of the 13 solution. I believe the importation of water over the 14 long-term will benefit the community. And I hope that 15 the Board is sincere in its support.</p> <p>16 I also appreciate the many hours that the 17 Board has been willing to spend on this issue. I know 18 many of you have traveled great distances and have spent 19 many hours doing that and I thank you for doing that. 20 It's not a job that many of us would be willing to do, 21 and it's also sometimes thankless.</p> <p>22 I appreciate those board members who are 23 willing to protect the aquifer. I think it's an 24 essential part of our community and I appreciate the 25 desire to protect that.</p>

1 I also appreciate the few Board members
 2 who are willing to talk about the issue and to hear ideas
 3 and input. We may not always agree, but your willingness
 4 to consider those ideas and think about them, even if you
 5 don't accept them I appreciate you taking them into
 6 consideration. It is appreciated.

7 Now, some of the things which I hope will
 8 be viewed as constructive criticism. There are several
 9 things that I think that the Board needs to work on. I
 10 don't like the fact that the Board has hidden much of the
 11 process from the public, and that the negotiating
 12 committee has not shared all of the information with all
 13 of the Board members.

14 I think that the decisions that this Board
 15 is making affect the entire community is a whole, and I
 16 believe that it is to the benefit of the community that
 17 it is involved in that process and understand each step
 18 of why you're making it, and not just being told what you
 19 decided.

20 I think that there as a great deal of
 21 information that this Board has chosen not to consider as
 22 it makes its decision. You could access information that
 23 will show you that any well that is far away from the
 24 stream has almost no effect on the short-term over the
 25 next 40 years.

1 I know that this Board wants to be fair.
 2 And I know it wants everyone in the community to
 3 experience the same policy. At the same time this, I
 4 think, will cause you to ignore the economic reality of
 5 the impact of what you decide.

6 Some of the Board members seem to have a
 7 desire to reduce the decline of the aquifer and in doing
 8 so using the settlement process as an excuse to do so.
 9 They are two different things. And, I guess, my concern
 10 is and wish is that you would address each one properly
 11 and recognize that as this aquifer decline is an issue
 12 but don't hide the decisions that you're making and using
 13 it as an excuse with the settlement with Kansas.

14 There's a rush to put these new rules in
 15 place. The policies that you have in this proposed IMP
 16 the reduction from 14 1/2 to 13 1/2 will have almost no
 17 short-term benefits. Over the next 12 months the
 18 policies that you have here will have no benefit over the
 19 stream. As a result there is no rush, in my opinion, to
 20 make this decision immediately.

21 I am glad to see that there's a law in
 22 Nebraska that requires open meeting laws, and I'm glad
 23 that its forced -- this Board is required to hold a
 24 public hearing. For some reason I'm under the
 25 impression, rightly or wrongly, that some of these things

1 wouldn't happen if it weren't for these laws. The
 2 secrecy in the closed meetings, the private negotiations,
 3 the subcommittees, which allow you to bypass the open
 4 meeting laws, the decisions to choose not to consider all
 5 of the information that is available is not a good thing
 6 for this community. It breeds distrust and causes
 7 disrespect. I hope the Board will choose to change that.

8 As for the specifics of the plan, I
 9 believe that I will personally survive the 13 1/2 inch
 10 allocation with carryover and pooling. And I think most
 11 of us here will. The ones who will be hurt are those
 12 smaller farms with small pools and very sandy soil.
 13 Reducing the allocation of anyone far from the stream
 14 will have no benefit to the settlement.

15 Let's consider a person who lives on the
 16 Chase County/Dundy line with sandy soil and more than
 17 5 miles from the stream. The reduction from 14 1/2 to
 18 13 1/2 will extend the life of this person's aquifer for
 19 maybe 400 years to 428 years. However, you have made it
 20 more likely that this farmer's children will not live
 21 here within 10 years. What have you gained?

22 Or take the owner who only has 30 years
 23 left in his aquifer, the reduction you're making may now
 24 extend the aquifer for two years. But at what cost to
 25 the community?

1 I know from the comments that you made at
 2 several of the Board meetings, I know it is the intention
 3 of this Board to pass this IMP tonight or not tonight but
 4 within the next month regardless of what happens, as
 5 Roger Patterson from another NRD board said, this one is
 6 a done deal, it's wrapped up. That makes it difficult
 7 for the public here to feel that they have any input in
 8 what happens.

9 A reduction from 14 1/2 to 13 1/2 inches
 10 will have no benefit towards the settlement and is
 11 unnecessary. You are not required to do this. The
 12 settlement requires the State of Nebraska to comply with
 13 the agreement. It does not give Nebraska permission to
 14 violate its own laws as it follows -- as it complies with
 15 the settlement.

16 This district is making cuts while the
 17 other three districts have increased allocations and
 18 usage -- excuse me; they have increased usage, they have
 19 not increased allocations.

20 Lastly, the water transfer from the Platte
 21 River Basin to the Republican River Basin would allow
 22 this NRD to stay in compliance with the settlement for
 23 many years at a much lower cost than the requirement of
 24 acres or reduction in allocations.

25 Ask yourself before you vote, am I doing

1 this in the best interest of this community? Does this
 2 vote reflect the desires and will of the people I
 3 represent.
 4 Thank you for your time. I have a copy of
 5 the written record, which I'll submit of this. And then
 6 I also have an additional document which I'd like to pass
 7 out to each of the board members. And I don't know how
 8 you want to do that. It basically shows documentation
 9 stating that this NRD has the ability with less
 10 restrictions than what its proposing to still stay within
 11 compliance.
 12 HEARING OFFICER: Thank you for your
 13 remarks.
 14 (Brief response from the public.)
 15 HEARING OFFICER: Thank you for your
 16 remarks. I think what we'll do is mark two exhibits.
 17 And we want to make sure -- That's the oral testimony.
 18 And this is supplemental. Can you describe those? We
 19 have one for the record. I'm going to mark the remarks
 20 as Exhibit 9 and receive them. And I'm going to mark the
 21 handout that Steve brought in as Exhibit 10 and receive
 22 that as well. Anybody else wish to testify can come
 23 forward at any time.
 24 (Exhibit Nos. 9 through 15 marked for
 identification.)
 25

1 MR. ROBERT AMBROSEK: My name is Robert
 2 Ambrosek. I reside at 72382 Green Road, Haigler,
 3 Nebraska, and that last name is spelled A-M-B-R-O-S-E-K.
 4 Board of Directors, Upper Republican NRD,
 5 I would like to address a few issues this evening that I
 6 see as affecting the interest of all water users in the
 7 Upper Republican NRD that are included in your proposal
 8 for integrated management plan.
 9 First of all, I'll address the allocation
 10 proposal of 13 1/2 inches. I would like to quote Section
 11 2-3201, the Natural Resources Declaration of Intent which
 12 states, Quote, "The legislature hereby recognizes and
 13 declares that it is essential to the health and welfare
 14 of the people of the state of Nebraska to conserve,
 15 protect, develop, and manage the natural resources of
 16 this state."
 17 I would specifically note the words
 18 conserve, protect, and manage as we have already
 19 developed. While I was a member of the Board the general
 20 consensus was DNR and Republican River Compact were the
 21 bad guys. The Upper Republican NRD Board and patrons
 22 need to look at the problem. The problem is simply the
 23 overuse of a limited resource, not DNR and not the
 24 Republican River Compact.
 25 I suggest the Board look at the historical

1 water use of the Upper Republican NRD, historical water
 2 use in later allocation periods is closer to 12.5 inches
 3 than the 13.5 inches proposed.
 4 Using only the historical 12.5 inches we
 5 are still seeing excessive declines in our ground water
 6 and extensive loss of our surface water. Why should we
 7 be setting an allocation at 13.5 inches?
 8 Look at Enders Lake, Imperial Light Dam,
 9 Indian Creek, Buffalo Creek, Stinking Water Creek, Rock
 10 Creek, Champion Lake, and the area north of the North
 11 Fork of the Republican River, all showing effects of
 12 extensive declines and not all from drought as some
 13 propose, but from excessive use of groundwater.
 14 I suggest that the allocations be set at
 15 something below historical use, something below 12.5
 16 inches. For 25 years I've heard producers say they could
 17 not manage with less allocations; however, we have
 18 reduced allocations and they've still managed to save
 19 water and build carry forward.
 20 Producers have had been able to adapt and
 21 will continue to adapt even though we may need to change
 22 some crops and farming practices until technology
 23 produces crops that will respond with less water.
 24 Carry forward, I understand your dilemma,
 25 but wonder how will you manage declines by allowing it

1 and its use.
 2 I've read that there has also been some
 3 interest in transferring water as proposed by WaterClaim.
 4 This will not solve the Upper Republican NRD problems.
 5 If the Board has the interest of water conservation and
 6 the benefit of the people of the Upper Republican NRD in
 7 mind, I think that money could be spent in better
 8 directions than in support of piping water into Harlan
 9 County Dam.
 10 We could use that 5 or 6 million dollars
 11 to retire acres or supplement our users that would in
 12 turn help all residents of the Upper Republican NRD.
 13 If you solve the Upper Republican NRD's
 14 problem of a declining aquifer we will have met our
 15 obligation of Republican River Compact.
 16 I think your approach to the floating
 17 township for pooling is commendable and should serve as a
 18 benefit to some irrigators in managing the use of the
 19 resource.
 20 Another issue LB 962 addresses the balance
 21 of water use and supplies for the near and long term.
 22 The goals and objectives of this balance are to be
 23 included in the integrated management plan as stated in
 24 46-715, Section 2.
 25 Someday the Upper Republican NRD will have

1 to face this issue. Why not start and work towards the
2 goal of sustainability so that all can change in a
3 programmed manner rather than wait and face the crisis
4 when it is mandated.

5 Someday water will be more valuable, more
6 valuable than the \$1.75 corn we produce with it today.
7 We need to forget our greed and selfishness in the use of
8 this resource and see that our children, grandchildren,
9 and great grandchildren have an opportunity to use it
10 more wisely than we.

11 Imagine what the viability of the area
12 would be without water, and if we don't change our
13 policies we will have no water for irrigation and much of
14 the area will be lucky to have enough water for household
15 and a few livestock.

16 In closing, I'd like to present a
17 perception of mine. I present Pumpkin Creek and the
18 decision by the Nebraska Supreme Court. In my view I see
19 Frenchman Creek, Indian Creek, Rock Creek, Stinking Water
20 Creek, and Buffalo Creek all in the same scenario. Can
21 we continue to deplete them? We need to work towards
22 saving a resource that took thousands of years to place
23 here. What gives us the right to deplete it in one
24 generation. Thank you.

25 HEARING OFFICER: Robert, do you want

1 those printed remarks in the record?

2 MR. ROBERT AMBROSEK: Yes, I do. And I do
3 have a copy, and I've got copies for each of the Board
4 members if they would like.

5 HEARING OFFICER: Okay. I'll mark
6 Robert's printed material as Exhibit 16 and I will
7 receive it.
8 (Exhibit No. 16 marked for
9 identification.)

10 MR. GREG SMITH: I don't think like doing
11 this. I never have and I never will. But I tell you
12 what, I'm torn up inside. I really am. I see a
13 completely different future than what was just presented.
14 Mr. Ambrosek, I respect you. I appreciate you as a
15 neighbor. I just see things a little bit different.

16 You know my grandmother was the -- my
17 great grandmother was the very first school teacher in
18 Chase County just south of Imperial. My great
19 grandfather homesteaded in Chase County. They were
20 enticed to come to Nebraska by the United States of
21 American with free land to develop the west. They did
22 that. They worked real hard for many, many years to make
23 my life better.

24 The Constitution of Nebraska for many
25 years has encouraged irrigation, encouraged the use of

1 water for economic development in Nebraska. Current law
2 in Nebraska protects irrigated uses.

3 Let me read, Nothing in an integrated
4 management plan for a fully appropriated river basin,
5 which is what we're apart of subbasin, shall require a
6 natural resources district to regulate groundwater uses
7 in place at the time of the Departments preliminary
8 determination that the river basin or reaches were fully
9 appropriated. But natural resources district may
10 voluntarily adopt such regulations.

11 The cut from 14 1/2 to 13 1/2 inches is
12 completely voluntary to you. I know that I've had this
13 discussion with you before, and I know that you said that
14 perhaps this doesn't apply, but the task force met just
15 yesterday considering modifying the provisions that
16 Natural Resource District cannot be required to regulate
17 groundwater uses in place when a basin is primarily
18 determined to be fully appropriated. They're wanting to
19 change that.

20 Now, I want you to know that I am not a
21 water waster. I'm an irrigator. I've been here my whole
22 life. I've been setting tubes right along with anybody
23 else. I don't think that any of you in here are water
24 wasters either.

25 I want to just give you a little bit

1 different picture of the way I see our future. The State
2 of Nebraska right now has declared most basins in
3 Nebraska as either fully or over appropriated. Right now
4 we're considering putting CREP into place, which will
5 retire up to 50,000 acres in the Upper Republican River
6 Valley.

7 Surface irrigators are begging for water,
8 McConaughy is empty. Harlan County Reservoir is empty,
9 Enders is empty. We have the Bureau of Reclamation just
10 requesting more water.

11 But my water use even in the last
12 testimony is being criminalized. That's the policy of
13 today. I didn't ask my children to come here, and I --
14 but my wife decided that I've been thinking about this
15 for quite a few days lately and she decided to bring
16 them. This isn't about me. It's about my future.

17 And Mr. Ambrosek is suggesting that the
18 future is not going to be here for our kids if we
19 continue to use our aquifer. I have to whole heartedly
20 disagree. I think our future is bright. I'm optimistic
21 about our future. And even though we have potential
22 water cuts coming to our own district, I have to think
23 that I am still going to proceed ahead and purchase land
24 in this area. This is my home. And I hope that this is
25 home for my children also.

<p>1 My desire is to not to deplete the aquifer 2 for my children. My desire is to continue using this 3 aquifer for the benefit of my children and my family and 4 for everybody else in this whole country.</p> <p>5 Just stick with me for a minute. I won't 6 take too much longer. But I want you to get a picture of 7 the Mississippi River. I know you've heard this before 8 that the Mississippi River is a grand river. And you 9 say, Why in the world am I thinking about the Mississippi 10 River? But I think if you see the big picture, you'll 11 understand what I'm talking about.</p> <p>12 Currently all the Republican River -- 13 Republican Basin irrigators on the Nebraska side are 14 consuming 1 million acre-foot of water a year. The 15 Mississippi River dumps 1.2 million acre-foot of water 16 per day into the gulf of Mexico. 1.2 million acre-foot 17 of water a day turns from fresh water into salt water.</p> <p>18 Now to me that's a waste. What I'm doing 19 as an irrigator in Chase County, Nebraska, is not a 20 waste. I'm taking fresh water and I'm converting it to a 21 beneficial use. Everybody in this room as an irrigator 22 is putting that water to beneficial use.</p> <p>23 Now, I've been thinking, Fine, if we're 24 going to make some water cuts here, why don't I go all 25 the way to the Mississippi gulf to find some of my water</p>	<p>1 canoeing and barges.</p> <p>2 The Loop system is dumping another million 3 acre-foot a year into the gulf of Mexico. I would like 4 to see some of that water brought up here. Now, where -- 5 what creates these rivers in northern Nebraska? It's an 6 aquifer that is completely saturated and full. How much 7 water is in it?</p> <p>8 If all of the irrigators north of the 9 Kansas State line, all of the irrigators in Nebraska 10 would try to empty that water out it will take 5 to 800 11 years to do it if it never rained again for 1,700 years. 12 There is that much water up there. And by the way, the 13 bulk of that water sits 400 feet higher than Chase 14 County, Nebraska.</p> <p>15 I could put a little pipe line from the 16 panhandle of Nebraska, pull that water down to Chase 17 County, Nebraska, and provide 1.2 million dollars of 18 money from the energy I produce from power generation.</p> <p>19 My point is that Nebraska is not short of 20 water. Nebraska has a mountain of water. If you go from 21 the middle of Nebraska east they have too much water. 22 The Mississippi if it was shut off at the bottom of 23 Mississippi would cover the entire state of Nebraska 24 9 feet deep in water.</p> <p>25 It would take 1,700 years to drain this</p>
<p>1 because there is plenty of water there. Let me import 2 some up here.</p> <p>3 Through my studies I find out there is so 4 much water there, I don't need to go clear to there to 5 get the water. I followed the river all the way up to 6 the Missouri River. And from the Missouri River I 7 followed it all the way up to Nebraska. I've got a map 8 right here that shows how much Nebraska water is 9 available. This is from the DNR site. It says that the 10 stream flow into Nebraska flows on the Platte River from 11 1,988 -- 1,998 -- almost 2 million acre-foot of water. 12 You know how much water is leaving the state of Nebraska 13 8.3 million acre-foot of water a year. We are wasting or 14 letting leave our state of Nebraska 6 million acre-foot 15 of water.</p> <p>16 So then I start wondering, well, where is 17 this water coming from? Maybe I can go get some of that 18 and bring it to Chase County, Nebraska. So I follow the 19 stream up a little bit farther. The water comes from the 20 Niobrara River, the Dismal River, the North Loop, the 21 South Loop, the Middle Loop.</p> <p>22 These rivers -- the Niobrara is dumping 23 1.2 million acre-foot into the Missouri, into the 24 Mississippi, right into the gulf per year. Converting 25 fresh water into salt water. Sure, it's used for</p>	<p>1 aquifer if we all pumped together to do it. It would 2 take the Mississippi River five years to fill it back up. 3 Water is not short in the United States. We don't have a 4 shortage of water problem in Nebraska. We have a 5 distribution problem.</p> <p>6 Now, I can go down to the State and try to 7 make policy changes, but, you see, I can't do that very 8 well when I have people from my own community who are 9 thinking otherwise, who are thinking we need to shut down 10 and we're feeling guilty about using this water.</p> <p>11 See, I'm a water saver. The water I use 12 from the aquifer would have gone into the stream and gone 13 down to the gulf and converted to salt water. My use of 14 that water prevents that from happening.</p> <p>15 For years surface water guys have been 16 doing the same thing, collecting water, using it 17 beneficially and keeping it from going out into the gulf. 18 We are water savers. This room is full of water savers. 19 We're the best Americans there are because we are 20 producing a basic product. We're producing beef. We're 21 converting water into corn. We're converting water into 22 popcorn, into potatoes, into wheat, into edible beans. 23 These are good things.</p> <p>24 If Nebraska could utilize or try to 25 utilize and if you would put a request to the State of</p>

1 Nebraska on my behalf, on everybody's behalf in this room
2 we could start moving water around a little bit more in
3 the state of Nebraska and revitalizing our community,
4 instead of asking people to leave.

5 And that's why my kids are here. If we go
6 to the CREP program we're going to lose some kids at
7 school. Instead of asking students, children to leave
8 this community we would revitalize this area, bring more
9 business to town, extend the water use. You see, I think
10 everybody in this room wants something little bit
11 brighter. And I think it's within the State of
12 Nebraska's budget and willpower to accomplish this.
13 Thanks for your time.

14 HEARING OFFICER: Greg, did you want any
15 printed material in the record? Did you want any
16 material in?

17 MR. GREG SMITH: No.

18 HEARING OFFICER: Okay. Thanks.
19 (Discussion held off the record.)

20 MR. KENNETH FRASIER: My name is Kenneth
21 Frasier, F-R-A-S-I-E-R, and I live in Subdistrict 1,
22 Dundy County 4 miles north of Max. The Upper Republican
23 NRD has presented a draft of an integrated management
24 plan. What does the word integrated mean? The word
25 integrate is variously defined as to bring together or

1 incorporate parts into a whole, to make up, combine or
2 complete, to produce whole or larger unit, to unite or
3 combine.

4 The word integrated is defined as having
5 on a basis of equal membership, combining or coordinating
6 separate elements to provide a harmonious, integrated
7 whole.

8 The question at hand is how does the draft
9 plan as it now exists conform to either definition
10 regarding the management of the water resources in the
11 Upper Republican Natural Resource District.

12 The draft deals with compliance issues
13 related to the Republican River lawsuit settlement, which
14 is a water quantity issue. But it is not the only water
15 quantity issue faced by the Upper Republican NRD.

16 Continued depletion of the aquifer is
17 another issue. Related to that issue but not addressed
18 in the document are issues of, No. 1, the maintenance of
19 domestic water supplies, both individual and municipal.
20 Number 2, maintenance of livestock water supplies.
21 Number 3, prevention of further loss of stream flow
22 volumes and continued migration of their head waters
23 downstream. And No. 4 is maintenance of industrial water
24 supplies.

25 An integrated management plan would have

1 to consider all these things to be considered a minimum
2 integrated management plan per water quantity issues. A
3 true integrated management plan also would address water
4 quality issues as water quality and water quantity are
5 connected in interactive issues.

6 Increasingly issues of raw water quantity
7 from both ground and surface water sources for domestic
8 water supplies and livestock water supplies will be
9 important NPDES, Nebraska Power of Discharge Elimination
10 System, permit for sewage and other discharge will be
11 impacted as surface water flows are further reduced as a
12 result of groundwater pumping.

13 Other factors not considered in the Upper
14 Republican NRD draft include impact of reduced surface
15 water flows on the status of surface water quality
16 standards and total maximum daily load standards.

17 Reduced water surface flows also may
18 contribute to species in surface waters becoming species
19 of concern, the precursor status to possible listing as
20 rare, threatened, or endangered species.

21 Thank you for allowing me to express my
22 concerns. And I wish this other sheet to be entered into
23 the record.

24 HEARING OFFICER: We'll mark this --
25 Kenneth's remarks or items as No. 16 and we will receive

1 it.

2 REPORTER: I'm sorry; did you say 16? We
3 already have a 16, I think.

4 HEARING OFFICER: Then obviously then
5 we're going to move onto 17.

6 (Exhibit No. 17 marked for
7 identification.)

8 MR. STEVEN GRAMS: My name is Steven
9 Grams. I represent my dad's farm, Robert Grams. He
10 asked me to read a letter that he put together since he
11 could not be here tonight. His letter states, My name is
12 Robert Grams and I live and farm south of Imperial. I
13 have all my life. I have watched Imperial and
14 Chase/Dundy County boom since the 1960's because of
15 irrigation. This was because of the foresight of my
16 father and, I suppose, many of your fathers too.

17 Most of the prosperity and bounty of
18 southwest Nebraska is due to the advance of irrigation
19 and center pivots. Please don't let the control of this
20 precious resource (water) fall into the hands of the
21 state and politicians.

22 I'd like to make several points. I
23 don't -- Don't give the State of Nebraska a blank check,
24 so to speak. It's my belief, and history will bear this
25 out that once Government lures you into giving them your

1 rights, you will never get them back.

2 The IMP you are proposing now will be cut
3 further and further by the higher powers once you sign on
4 the dotted line. This has always been true of government
5 once politicians become involved, you know who will
6 control us, Lincoln and Omaha and their urban senators.

7 I thank you for fighting to preserve carry
8 forward and pooling, but I fear that once the IMP is
9 adopted, these will fall by the wayside. Please listen
10 to the people of southwest Nebraska and not be lured down
11 a different plan by the DNR.

12 Two, I believe that the Upper Republican
13 NRD is assuming too much of the burden to fix the
14 Nebraska or the Kansas/Nebraska problem. The Upper has
15 been controlled with water meters for many years, which
16 have resulted in conservation of water, but all the
17 surrounding areas have not. So why should we continue to
18 sacrifice more and more?

19 Three, I want you to take a more active
20 role in looking at alternatives to this water issue.
21 Water transfer is one very good possibility. I think
22 this idea has a lot of merit and should be pursued and
23 stated as part of the IMP that you adopt. Nebraska is
24 water rich. It just has to be moved around. If we do
25 not keep and use the water, Denver and Omaha will end up

1 with it. This state is built on agriculture, so keep the
2 water here.

3 Number 4, slow down. Slow this process
4 down so the ultimate plan is what we want. I'm sure that
5 the State is promoting urgency or fear so that they can
6 get what they want before we can think it through. We do
7 have time.

8 Number 5, my last thought is that farmers
9 and irrigators are not crooks or being wasteful of a
10 natural resource, water. They are the most
11 conservation-minded people I know. The land, livestock,
12 and wildlife is our living and our son's and our
13 grandson's living. Why would we deliberately destroy it?
14 If you want to see wastefulness, let the control of this
15 resource get into the hands of government and
16 politicians.

17 I urge you again to listen to the people
18 and keep local control. Thank you for listening to me.
19 I really appreciate your willingness to solve this
20 problem. That's from my dad.

21 The letter that I have written, it's not
22 my farm but I farm with my dad, states that we have
23 always had an IMP, and no one else has. Our allocations
24 have decreased steadily over the last 15 years and stream
25 flow has only gotten worse. The Middle and Lower

1 Republican has never had any control in areas that
2 contained more quick response areas than the Upper.

3 We suggest that the IMP not reduce
4 allocations or commit us liable for any percentage of
5 water until the Middle and Lower Republicans are proven
6 to be in control.

7 Number 2, Denver and Omaha both know the
8 wealth of water in the panhandle and in Central Nebraska.
9 Just as Upper Republican farmers pioneered irrigation in
10 the past, we should pioneer canals of water now. Instead
11 of being submissive, be pro-active.

12 Take a stand and say the cost is too high
13 for our community to give up any more allocations.
14 Suggest positive new ideas to solve problems and possibly
15 create even more opportunities for our communities.
16 Canal management or transfer management and increased
17 water in recreation areas equals more jobs and more
18 economic activity in our hometowns.

19 If we don't put first claim to the
20 transfer concept, we will never make the food chain
21 compared to the big cities speculating the water transfer
22 concept to their cities now.

23 Medicine in agriculture. The control that
24 we have with irrigation compared to those that depend on
25 rainfall is priceless. I heard mention crops and various

1 things, but as genetics develop, crops are a lot more
2 important to things that we never even conceived being
3 good for. As genetics are being produced in grains to be
4 placed in medications, the control of incorporation and
5 timing of application may prove to be superior to those
6 who depend on rainfall.

7 We have to protect the abundance of water
8 for our communities to grow when new purposes for
9 production exist. Don't draft a plan that slowly takes
10 us out of the game. Make a plan that not only keeps us
11 in the game, but makes us a winner.

12 If you consider rainfall in Iowa and
13 Illinois as a gift from God for their areas, consider
14 groundwater as God's gift to us. All areas have
15 something and people capitalize from it. If you don't
16 implement an aggressive stand to persuade the State to
17 aid us in building canals now, someone else is going to
18 get the water. The very situation might have come about
19 to serve -- or this very situation may have come about to
20 serve as an opportunity to build canals or transfer
21 systems before large cities take it all.

22 Nebraska has an obligation to Kansas. We
23 can meet that obligation by destroying what everyone has
24 worked for in the Upper Republican or we can poise
25 solutions to meet our obligations to Kansas and possibly

1 drastically improve the future of our community by doing
2 so. Notice I said, what we have worked for in the Upper
3 Republican. Remember that until now we are the only ones
4 that have been stewards and workers of water. Thank you.

5 HEARING OFFICER: Thank you, Steve. And
6 can we mark those? I'm marking that 18, this will be
7 Robert Grams' letter, and 19 will be Steve Gram's letter.

8 And we've receive both of those.
9 (Exhibit Nos. 18 and 19 marked for
10 identification.)

11 MR. BRIAN PROSSER: My name is Brian
12 Prosser. I farm out of Lamar.

13 REPORTER: I can't hear you very well.

14 MR. BRIAN PROSSER: My name is Brian
15 Prosser, and I farm out of Lamar.

16 MR. DAVIDSON: Would you spell your last
17 name?

18 MR. BRIAN PROSSER: P-R-O-S-S-E-R.

19 REPORTER: Thank you.

20 MR. BRIAN PROSSER: And I'll probably get
21 this all out of order because I didn't do a good job of
22 writing this. I did it in the tractor today. So first
23 of all I would like to say that I really, really admire
24 you guys for going through what you're going to go
25 through here and we've gone through already. I think

1 more than meter violation. Your job today is more than
2 imposing a fine on somebody that has mismanaged. Your
3 job here today is on the future of this region. And it's
4 cut and dried, that's what it is. What you do here is
5 going to affect everybody in this region one way or
6 another. It is going to affect them. It's a huge load
7 on your shoulders, huge. I wouldn't want it.

8 If I did have your job, I would have to
9 consider a lot of things and not just take the first
10 thing that comes down the pipe to get me off the hook
11 because you're not going to be off the hook. If you take
12 what I see proposed as 13 1/2 inches open-ended I don't
13 think you're off the hook. I think you got to look

14 people in the eye for five years. I think you have to
15 see if you have a neighbor to look in the eye in five
16 years. You have an obligation to look at the future of
17 your kids, my kids, every kid in this community.

18 I want to tell you a story. I come
19 from -- I've been here 11 years. I came from Arizona.
20 And we were in the mountains. There was a great logging
21 community there. The largest national forest in Arizona.
22 There was more pine trees than you know what to do with.

23 They were logging them and it was managed.
24 But then somebody come and they found an owl that needed
25 to be saved and protected. So they shut down the

1 it's been a huge load. And whatever you come up with so
2 far, you know, I know has been thought out. I don't
3 think it has been just a tongue and cheek type of thing.

4 I think the pooling has been an excellent
5 idea. The carryover, it's good for us. The liability
6 for the Upper Republican I think is very important. It's
7 obvious to me because we have been regulated, we have had
8 meters for 25 years and they have -- obviously they have
9 not conserved in the way we have, and I -- and that said
10 I don't understand why we're being hit so hard with this
11 and these other districts aren't.

12 Second, thing on this I would like to say
13 that the part -- the open end and it's been said, I
14 disagree with. I've never seen taxes cut. I've never
15 seen things given back that have been taken. And I don't
16 see inches given back. I see them taken away. That's
17 just the way it works. That's a no-brainer.

18 We aren't -- You know, we started out with
19 14 1/2 inches here for this term. And we're not even
20 going to get that. We've already had agreements that
21 have been broken. They'll do the same thing in the
22 future. If they don't get what they want, they're going
23 to come back to us and they're going to take more.

24 I wouldn't want your job. I've been on
25 thankless boards before too. But your job here today is

1 logging. The owl got saved, momentarily. The logging
2 got stopped, jobs got lost, economy in that area really
3 faltered.

4 Two years later lightening burned down the
5 whole damn forest, the owl too. There is no trees for
6 them owls. We annexed ourselves out of jobs. We managed
7 that wildlife out of habitat. We just managed ourselves
8 to death.

9 Sometimes in the effort of saving and
10 conserving and trying to, quote, unquote, do the right
11 thing we can't see the tree through the forest.

12 So I urge you guys, and like say, I don't
13 want your job. But I know that if I had your job in five
14 years I would want to look in the mirror and say I looked
15 at every option out there. I looked at piping water in.
16 I did not say planes could not fly in 1910. They turned
17 out to fly. I would not say piping water here is not
18 possible. I think it's possible.

19 I would rather see my money spent as an
20 irrigator if I'm going to send five, eight, whatever the
21 numbers are to retire, I would rather see that go for
22 progressive to bring water in. Does one person have to
23 suffer so someone downstream can benefit.

24 I think there is other options. I think
25 we have to look at them. I think that is an obligation

1 this Board has to do. And I just like to say -- I knew
2 I'd get some of this out of order. But I want to tell
3 you that I appreciate what you're doing and I know it's a
4 huge job. But I also want to lay this guilt trip on you
5 that you've got a huge load on you and you've got a lot
6 of people out here, a lot of livelihood, a lot of
7 generations to come that are either going to be here or
8 they're not and sometimes we may save water for nobody to
9 use in this region.

10 So, yeah, I'm sure Kansas is going to get
11 it one way or another. But it's going to be whether
12 we're using it, whether we pipe it in, or whether we're
13 not using it. One way or another Kansas will get their
14 water.

15 HEARING OFFICER: Brian, did you want the
16 material in the record or just your testimony?

17 THE WITNESS: No.

18 HEARING OFFICER: Anybody else wish to
19 offer testimony?

20 MR. TERRY BILKA: Yes. I also want to
21 start my name is Terry C. Bilka. I am a resident and
22 have been a resident of Chase County all my life. I live
23 south of Enders Lake --

24 CHAIRMAN PELSTER: Can you use the mic?

25 MR. TERRY BILKA: I'm Terry Bilka, I live

1 south of Enders Lake. I have lived here all my life. I
2 just want to -- Before I read my prepared speech I want
3 to once again compliment the Board. It's not that I
4 don't have a lot of gratitude for what you're doing. I
5 know like the others that this is hard work, and it's not
6 something that any of us would look forward to doing, and
7 I consider you gentlemen very, very knowledgeable. And I
8 have a lot of respect. Okay.

9 You're not going to hear a lot new from me
10 than what you've already heard, but you might hear it in
11 a little bit different way. I, Terry Bilka, have come
12 before the Upper Republican NRD Board this the 3d day of
13 February, 2005, to give testimony.

14 I'm a life-long resident of Chase County
15 and don't want to be seen as someone who is against water
16 conservation. I am of the opinion that water
17 conservation and irrigation go hand in hand to be
18 effective and profitable as a farmer in southwest
19 Nebraska.

20 I don't however think that the three
21 counties of the Upper Republican NRD can save the
22 aquifer. And it appears that others in the voting public
23 of this water district must feel the same or they
24 wouldn't have voted to start removing members who didn't
25 look out for their constituents' interest.

1 It appears to me that dealing with the
2 Nebraska DNR is like dealing with a bad drug habit. The
3 more you give it, the more it wants. And it's back at
4 our door again. They want our water district to be
5 responsible for most of the water conservation needed to
6 bring Nebraska into compliance with the recent water
7 compact agreement.

8 When did southwest Nebraska become the
9 whole state of Nebraska. Why is it the irrigator in
10 southwest Nebraska always has to be the one who is called
11 on to make a sacrifice?

12 Have you thought about why the water
13 districts were ever established? My theory is that the
14 DNR wanted a way to govern water in out state Nebraska
15 without affecting the more populated area of the eastern
16 part of the state. And it's worked very efficiently and
17 effectively.

18 Use a scare tactic that every time the DNR
19 wants something done go to the local NRD Board, give them
20 a threat, and then get a local board, good outstanding
21 citizens, to do the dirty work for them. This is the way
22 it looks like -- This way it looks like the local Board
23 is making the changes and not the DNR. Dealing with the
24 DNR is like dealing with a drug habit.

25 It is my understanding that to make this

1 IMP work we will need approximately 50,000 acres to be
2 removed from the pumping field and enrolled in an
3 assistance program like CREP. What are the benefits,
4 rules, and conditions of these assistance programs?

5 Go into the NRCS and the FSA to get more
6 information on these programs, but all they can give you
7 is the generality of cost or rules to comply. Why would
8 you want to approve a new IMP without knowing that this
9 50,000 acres is a realistic and viable number. Dealing
10 with the DNR is like dealing with a bad drug habit.

11 It has been suggested that the money that
12 will be used to fund these assistance programs be
13 partially collected from a tax on irrigated acres. Why
14 can't the funding come for a tax of every bathroom in the
15 state of Nebraska? They use water too. Why are we --
16 Why is it that we are Nebraskans in everything except
17 water?

18 We in southwest Nebraska didn't sign these
19 water compacts. The State of Nebraska as a whole did it.
20 There are other ways to consider, not just reducing
21 irrigation. The search for solution shouldn't stop here.

22 The term integrated management plan as I
23 find it today means to merge gradually, one with another
24 through a continuous series of forms in a judicious use
25 of means to accomplish an end.

1 The proposed plan uses only irrigation
2 cuts and no other forms and means. I think the Board as
3 a whole is intimidated by the DNR who uses scare tactics
4 as a means of governing.

5 I know that every Board member who would
6 vote for this IMP thinks in his heart that it's the
7 correct thing to do. I appeal to each of you as an
8 individual to pledge to continue to seek a more rounded
9 solution to this problem other than more allocations,
10 cuts and agreements that will only restrict water use in
11 the future. Thank you.

12 HEARING OFFICER: We'll mark Terry's
13 remarks as Exhibit 20 and we will received them.
14 (Exhibit No. 20 marked for
15 identification.)

16 MR. FLOYD PARMAN: Well, I had something
17 all written out but I threw my paper away so I'm just
18 going to say it. Mr. Chairman, Board members, and fellow
19 stakeholders, first of all, I want you guys to know that
20 I don't have anything against the water resources. I'm
21 not -- I don't think they're going to hook me or anything
22 like that. I'm for the Lower Republican and I'm not
23 worried about them. And I think you guys can handle
24 anything that needs to be handled.

25 I can't believe we stand here and kid

1 ourselves like we do about our aquifer, with all the
2 records we have which shows our decline, creeks are all
3 drying up, they talk about Rock Creek drying up, wanting
4 to pump two wells which will make the stream flow just
5 that much less. Why we stand here and kid ourselves
6 about the problem.

7 You know, Kansas-Nebraska thing is not our
8 problem. We've got the same problem we've had for years.
9 We're mining water out of a body of water and it's always
10 been that way every since we started.

11 We have 1 inch of recharge and we're
12 pumping far in excess of that, so what does that have to
13 tell you? It can't last forever.

14 And, you know, I happen to farm down in
15 that sandy area that you're talking about, and why would
16 you even mention 400 years or mention grandkids. All
17 I've got to tell you is you better get to having kids if
18 you want your grandkids to have any.

19 We've got wells sucking air, that means
20 they're on the bottom, people. That means they're on the
21 bottom. And I know you got some more water than others,
22 but everybody is in decline.

23 So, you know, we've had this stakeholder
24 meeting, if I were you stakeholders I'd get together and
25 say, hey, how much longer is this going to last. When I

1 go make a land note for 20 years, I'd venture to say
2 before that 20 years is up you're going to find you've
3 been paying for some damn expensive dry land.

4 So, guys, that's about all I got to say.
5 We're pumping too much water, and you want to change it,
6 well, how do you do it? Real simple. I probably won't
7 get clapped. I'll probably get booed, but I've been
8 booed before.

9 HEARING OFFICER: Anybody else wish offer
10 testimony? Or maybe we should take a break?

11 (Short break taken.)

12 HEARING OFFICER: We're back on the record
13 again. I have received at the table here some written
14 testimony from a gentleman that's traveled quite aways
15 and he's not going to read it. It's from the Irrigation
16 Projects Reauthorization Council which is Kansas
17 Bostwick, Nebraska Bostwick, Frenchman-Valley,
18 Frenchman-Cambridge, and the Almena Irrigation Districts.
19 This will be part of the record I've marked the two
20 sheets as Exhibit 21-A and 21-B. B is just a list of the
21 entities.

22 And do we have somebody else that wants to
23 testify, go ahead and sign in and we'll hear what you
24 have to say.

25 (Exhibit Nos. 21-A and 21-B marked for

1
2 MS. BARBARA WENDELL: I'm Barbara Wendell
3 from Grant, Nebraska. My husband Mark is not here
4 tonight. We farm south of Madrid. First we want to
5 thank the Board for their efforts and labor in bringing
6 the necessary document thus far.

7 I'm very happy to see that most of our
8 traditional methods of management and usage of water have
9 been preserved for the present, especially carry forward.
10 This is new to our area and is very important. I have
11 discussed 1.46.03 with Mr. Fanning of the necessity of
12 providing water for certain non-certified such as
13 satellite wells or satellite pivots, and it is my
14 understanding that that will happen.

15 A few items that I would like to bring to
16 the Board's attention to consider changing or adding to
17 this are, there has been discussion of an economic impact
18 study being required. Is this a fact, has it been done,
19 has it been performed and sent to the Governor's office?

20 Secondly, as water uses and water sources
21 change, could there be a change to reconsideration of our
22 44 percent depletion responsibility if necessary? As we
23 are on the upper edge of the underground lake our usage
24 may decrease by the difficulty of lowered pumping levels.
25 If our usage declines more than other districts, then our

1 depletion responsibility should also be less.
 2 Third, I have not looked into water
 3 transfer in great detail, but I would like to see it
 4 added as a possible future solution if it is feasible,
 5 the inclusion should not be overlooked. If it turns out
 6 not to be workable, it didn't cost anything to include it
 7 anyway.
 8 Thank you for the opportunity to address
 9 the Board on these important issues. And I don't think I
 10 would want to be in your place either, but on behalf of
 11 Mark and Barb Wendell.
 12 HEARING OFFICER: Barbara, do you want
 13 that in the record and marked?
 14 MS. BARBARA WENDELL: Please.
 15 HEARING OFFICER: We'll mark that as 22
 16 and receive it.
 17 (Exhibit No. 22 marked for
 18 identification.)
 19 MR. SCOT GERMAN: My name is Scott German
 20 and I farm west and south of town. And Terry asked us
 21 not to repeat ourselves, but I'll go ahead and say I do
 22 appreciate some of the things that the Board has done.
 23 For us the pooling is absolutely essential to preserve,
 24 and also there is very favorable transfer language in the
 25 IMP. And we also think that that's necessary for our

1 operation.
 2 This Board has developed a reputation of
 3 being aggressive when it comes to conserving water. Most
 4 of that comes down to the fact that we've led the way in
 5 addressing the problem and solved it or attempted to
 6 solve it through decreasing allocations.
 7 Some people have considered this
 8 visionary. I would disagree. Water allocation was an
 9 easy fix. Visionary would have gotten the rivers flowing
 10 and filling the Harlan County Reservoir. There are two
 11 ways of doing this. One has been talked about a little
 12 bit -- quite a little tonight. That's water importation.
 13 The second is the tree reduction in our area in this
 14 river basin district area.
 15 Some people have said that these are
 16 details that can be added later. I, however, think that
 17 the devil is in the details and it needs to be addressed
 18 now and put in there so we don't have to wait for later.
 19 If the State signs onto some of these
 20 ideas, we've got a negotiating partner, not an adversary.
 21 And, frankly, we need more things that can be taken away
 22 from us, we're down to the point where we really can't
 23 take water away.
 24 Considering water importation, if the
 25 state is successful in importing water to Harlan County

1 Reservoir it's an obvious bonus for us if we can raise
 2 the water of that lake to the point where we're no longer
 3 in water short years.
 4 But that water cannot only belong to Lower
 5 NRD. Should any positive changes in the allocations be
 6 realized because of that, we need to be able to share in
 7 the redistribution.
 8 Again, visionary work on the Board that we
 9 have would have studied and proposed these issues instead
 10 of let private parties lead the way. And I think it's
 11 time that we thank them and supported them in writing in
 12 this IMP.
 13 Secondly, tree reduction. I realize
 14 Nebraska is the Arbor State. Each one of us have had
 15 great, great grand relatives who pioneered this state
 16 knowing that trees have a very fond place in all of our
 17 hearts.
 18 Probably 100 percent of us have planted
 19 trees and participated in planting trees and gotten a
 20 warm, fuzzy feeling anytime we've driven down the road
 21 and seen a tree make it in the road ditch.
 22 Little did we realize that this attitude
 23 was draining the lifeblood of the area from beneath our
 24 feet. The latest numbers I've heard in reference to the
 25 use of water by trees near the stream beds in the

1 Republican River Basin is just short of 500,000 acre-feet
 2 a year.
 3 Now, imagine that, we've got the gorilla
 4 in this war, the Upper Republican, we're pumping about
 5 500,000, and the other two NRDS are pumping about 500,000
 6 together and nobody says anything about the trees which
 7 are taking just as much as we are.
 8 Visionary would have been educating the
 9 public 25 years ago as the need to manage these trees.
 10 Visionary would have been to start to decline them in
 11 that area, weeds, not trees. Visionary would be to buck
 12 the USDA that encourages tree planting in areas that are
 13 not specifically protecting life or livestock.
 14 The data shows that had we been as
 15 aggressive in managing the trees as we were in reducing
 16 water allocations, that the levels all the rivers in the
 17 Upper Republican NRD would be full, not at historical
 18 levels, but nearly at historical rates.
 19 The best way to quickly battle this would
 20 be chemical killing of the trees with the land owner's
 21 approval. Some folks are going to scream about that.
 22 Our friends from Game & Parks who think that we can raise
 23 corn on 6 inches of irrigation, and many likely will say
 24 we'll kill fish by doing that.
 25 Well, I'm sceptical that I can use -- I'm

1 not confident on our abilities to raise 180 bushels of
2 corn on 6 inches, but I know he can't raise fish in dry
3 streams.

4 And if we spray trees and kill half the
5 fish and start the streams again, we've still got fish.
6 If we let those streams go dry, then they're gone. And,
7 frankly, that's the only thing that will solve this
8 problem quick enough to save most of these small
9 fisheries. Visionary would be to add strong language to
10 support this idea in the IMP.

11 I know there is some time pressure on the
12 Board to get the IMP signed, sealed, and delivered. But
13 I also know it doesn't have to be done by May. I believe
14 the real date is September of next year.

15 As a cattle feeder I know the biggest
16 mistake I make in negotiations is to be the first one to
17 give a price. And we can't be the first person to sign
18 onto this thing. We can't be continually asked to be
19 leading the way. Somebody else has got to step up to the
20 plate and show that they are in good faith negotiating
21 before we have to do it again.

22 So I would ask the Board, therefore, to
23 waive approval of the IMP until these issues could be
24 negotiated in. It's only practical to approve the parts
25 dealing with the allocations because those are the parts

1 we are thinking about. We've been studying them for 25
2 years.

3 The title of the integrated management
4 plan without these issues specifically addressed and in
5 print it is not an integrated management plan.

6 In addition, I'd like to answer a previous
7 statement as to why a 13 1/2 allocation is necessary when
8 we historically use 12 1/2. The fact is that 13 1/2
9 protects families that have built their farms in areas of
10 sandy soil.

11 In actuality many folks in this district
12 live in areas that traditionally get more rainfall,
13 better soils, and poor wells that have never been able to
14 or needed to pump more than 12 inches. To reduce the
15 allocations will affect those who are clearly already at
16 the 14 1/2 inch level. It will affect them, it will
17 affect main stream, and it will affect them both
18 immediately.

19 And along those lines I'd like to
20 congratulate Wauneta-Palisade for stubbing Cambridge's
21 toes not just once, but twice in basketball these past
22 few days. But do you guys pause to wonder what in the
23 world is Cambridge doing playing D-1? Wauneta is only
24 D-1 because they're combined with Palisade. You can look
25 at the population of this district. And it's not too far

1 off from what it used to be 20 or 30 years ago. But that
2 reflects our past.

3 Somebody mentioned the need to do an
4 environmental impact statement. Well, it's already been
5 done for us by the NSAA, Nebraska School Activities
6 Association. Every year they come out and they assign
7 school districts with their seating, their ranking, their
8 ratings, or whatever, classification.

9 Imperial is no longer B. Grant wouldn't
10 be C-2 if it wasn't for Madrid coming in. Benkelman is
11 D-1. We've already talked about the others. That
12 reflects the future. That's the number of kids that are
13 in the pipeline.

14 If we reduce allocations anymore, and I
15 guess I'm speaking more to the statement saying that we
16 could reduce allocations. Any cutting we do right now
17 just exacerbates that process, speeds it up. We can all
18 go down another classification.

19 Read the McCook paper, you'll see that
20 even Cambridge is -- why are they -- you know, they don't
21 have the water problems. And they're -- and they're
22 cutting. They're losing their population base. If we
23 cut what is our lifeblood, we're cutting our throats.
24 Water is the only thing that makes this area work, and
25 we've got to hold on to it.

1 There is one other scare tactic that I'd
2 like to address that was used tonight. And, again, I
3 think if somebody uses fear you need to meet it with
4 fact. So while it doesn't necessarily address the IMP,
5 it addresses some testimony.

6 And that is to say that if we continue to
7 pump too hard and too long, we're going to take so much
8 water out of this area that not even livestock and
9 domestic will be left with water.

10 Well, nearly all my education that I have
11 in water issues I've got sitting in meetings like this.
12 And with sitting in meetings like this listening to state
13 hydrologists who have stated unequivocally that as we
14 retire unprofitable irrigation wells that can no longer
15 produce the 5 to 600 gallons, 400 maybe at the minimum to
16 irrigate a quarter of ground, and you retire that we're
17 going to leave plenty of water for 50 gallons a minute
18 for domestic and livestock wells. So I thought that
19 needed to be addressed. Thank you for the opportunity to
20 provide testimony.

21 MR. TERRY MARTIN: My name is Terry Martin
22 and I shook Terry Martin's hand because I wanted him to
23 know I don't hold any grudges. My qualifications are I
24 am fourth generation in this county, and I guess that
25 would make my sons fifth, wouldn't it?

1 I consider you guys to be pioneers with
2 what you've done, where you've come. I haven't agreed
3 with everything you've done, but I want you to know if
4 you don't continue to be pioneers and you submit to this
5 draft, everything you've accomplished has been in vain in
6 my opinion.

7 Stay firm with what you built and do this
8 for our kids. And, Robert Ambrosek, think out of the box
9 a little, please. There is other ways. There is other
10 ways to do things. You guys can do it. I believe in you
11 100 percent and whatever you do, God bless you.

12 HEARING OFFICER: Does anybody else wish
13 to offer testimony tonight?

14 MR. JEFF WALLIN: My name is Jeff Wallin.
15 My last name is W-A-L-L-I-N. I'm here to represent
16 myself, my wife, and my four kids. I believe that this
17 Board has a responsibility to the members of this
18 district, not the DNR. I want to repeat that. This
19 Board has the responsibility to the members of this
20 district, not to the DNR. That's why you're here.

21 The majority of the people in this
22 district do not approve of the IMP as it is written. If
23 you don't believe me I don't know how, given the
24 responses that you got from the previous people who have
25 spoken tonight. I don't know how you could miss that.

1 But I just thought I'd repeat it just in case some of you
2 weren't paying attention.

3 It's not coincidence that Mr. Ambrosek is
4 sitting at the back of the room here giving his testimony
5 tonight. Voters told him what they think of that. And
6 that's why he's back there. And if you guys vote for
7 this IMP and cut allocations you're going to end up in
8 the same place.

9 Now, I don't have anything against you
10 guys, but this current plan has nothing positive in it.
11 There is nothing positive in this current plan. That's
12 why you're not getting any support for it.

13 I'm going to repeat that. Nothing, there
14 is nothing positive in this plan other than let's cut
15 water and see if we can get by. Maybe we can make it
16 work. I guarantee you there is going to be some people
17 that love seeing that work.

18 Do you want that responsibility? I
19 wouldn't want it. I believe that this current situation
20 gives us, gives you guys an opportunity. Right now we
21 have the attention of the State of Nebraska. That gives
22 us the opportunity to do some things that normally we
23 would not have the opportunity to do.

24 If we just go along with it and say, okay,
25 we'll cut back to 13 1/2, we're giving in. That's too

1 easy. That's what they want us to do. Don't give in to
2 them. Take the opportunity, seize the moment. Let's
3 make something good come out of this.

4 I believe that the State of Nebraska is
5 the one who signs the compacts, they're the ones that get
6 us into this. They should have to help get us out of it.
7 Not just tell us, oh, you guys out there you need to cut
8 your water so we can meet this demand of this compact.
9 Make them step up to the plate here and help us out.

10 I guess, last of all, I'd like to say that
11 I support the WaterClaim and the proposals that they have
12 out. I don't know where all you guys stand on that, but
13 if you don't believe that you can move water around, I
14 would challenge you to go read about Great Man-made
15 River. I don't know if any of you know where that is,
16 but maybe that could be your homework assignment. Read
17 that and find out what it is. Find out that there are
18 possibilities out there. We don't just have to cut
19 water. There is plenty of things we can do.

20 And I believe that the majority of the
21 people in this room and in this district would agree with
22 that. So I urge you not to pass the IMP as it is
23 written. Take your time, get some more information.
24 Let's get something positive going here.

25 Like I said, I represent myself, and my

1 four kids, and my wife. I want us to have a future here.
2 I don't want you guys taking that away from me. Thank
3 you.

4 MR. DOUG GASWICK: Good evening. My name
5 is Doug Gaswick, G-A-S-W-I-C-K. I apologize. I don't
6 have a formal document this evening. I scratched a few
7 notes over supper and I'm going to share a couple of them
8 with you. I am a resident of Imperial in Chase County,
9 and southwest Nebraska. And I am very interested and
10 concerned about the economic impact of our community that
11 your IMP is going to have. How much and how fast of an
12 economic impact it's going to have nobody knows. There
13 is too many unknown factors, variable factors, nobody
14 knows. But there is going to be an economic impact.

15 But I do believe that the one single thing
16 in your IMP that's going to have a very significant
17 impact on our economy is the retirement of acres. That's
18 going to have the most substantial impact. Retirement
19 whether it's a retirement of a human being, a piece of
20 equipment, or ground in the Upper Republican Natural
21 Resource District is the beginning of the end.

22 Retirement of acres is the beginning of
23 the end for southwest Nebraska as we know it today. You
24 know, it costs -- People tell me that we can replace this
25 ag economy with other economy. That's very, very

1 expensive.

2 Just a couple quick examples in business
3 to replace an employee cost one to two times the annual
4 salary of the position being replaced, one to two times.
5 To replace a customer that's lost costs six times what it
6 would have cost to maintain and preserve the customer
7 that was lost. Just two little examples and that's very
8 small scale. To replace the ag economy or a portion of
9 it here in southwest Nebraska would be very, very
10 expensive.

11 And on top of that I don't think it could
12 be fully replaced with whatever we do lose. We're in a
13 remote rural area. We're not on the interstate. We're
14 not on a main railway or water way, no pun intended. You
15 know, I think it would be very difficult, you know. You
16 would lose a lot of people from the area. You would lose
17 a lot of business, and then you have to try to get that
18 all back. It's a lot less expensive to be able to
19 maintain and preserve what we've got then to have to
20 start over.

21 I guess, I want to ask you to really think
22 about this retirement of acres. Is it really necessary
23 to offer and provide now in this IMP this year at this
24 time? You guys have done an excellent job. You guys on
25 past Boards for the last 25 or however many years on this

1 water management plan has been in place here in southwest
2 Nebraska. And I think the other districts have a lot of
3 catching up to do. And I think let's slow down and not
4 offer everything at once.

5 You know, as far as leaving you with an
6 idea and Jeff eluded to it, you know, we've built
7 highways and interstates and railways all over this
8 country all over this state. You know, that's expensive.
9 You know, let's build some rivers or diversions to where
10 you can move water around.

11 I guess, I don't have any answers for you,
12 but I think I'd like to see things slow down. You've got
13 some time yet. There's no need to approve this in the
14 next month.

15 So I appreciate and respect everything
16 that you guys do and have done. You have the hardest
17 position of anybody right now in southwest Nebraska.
18 Thank you.

19 MR. JASON KUNKEL: Good evening. My name
20 is Jason Kunkel.

21 HEARING OFFICER: Can you use the mic?

22 MR. JASON KUNKEL: My apologizes. Good
23 evening, my name is Jason Kunkel, K-U-N-K-E-L. And I'm
24 from Lamar, Nebraska. First of all, I'd like to thank
25 you, members of the Board, for your time and dedication

1 over this last year. It's a lot easier for us to come
2 here a few nights out of the year and dish it out than it
3 is for you to sit here and go through the meetings and
4 take it.

5 I guess I've started with my positive. I
6 remember sitting here in this room a little over one year
7 ago listening to the public information meeting about
8 what we as the Upper Republican could expect in the
9 development of our IMP plan.

10 Unfortunately many of the questions that I
11 walked away with that night from that first meeting
12 remain questions still tonight. Many of the questions
13 have remained unanswered and many potential alternative
14 answers to this crisis have been for the most part
15 overlooked.

16 One such question is whether the Upper
17 Republican Natural Resource District irrigators who have
18 managed to bank water despite the drought will be able to
19 use that carry forward under the proposed IMP new
20 allocations or under the new program only the carry
21 forward mechanism, the ability to bank up to 6 inches per
22 year will be retained. Are we to be rewarded or punished
23 for our stewardship?

24 Perhaps the most perplexing attribute of
25 this IMP is its lack of overall clarity about what to

1 expect. At the last information meeting in February
2 Chairman Pelster's response to a question said that one
3 of the goals of the IMP is to tell irrigators how much
4 water will be available and to let them decide what to do
5 with it. However, when one reads the proposed IMP,
6 specifically rule 1.01 or 2, it becomes extremely
7 difficult to reconcile Mr. Pelster's statement with the
8 proposed regulation.

9 From an irrigator's perspective of the
10 proposed IMP often appear to be both authoritarian and
11 vague. A potential ruinous combination for both the
12 irrigator and the region.

13 The other question that I've long had is
14 how extensively has the economic analysis of the proposed
15 IMP been considered. You may recall the Republican Basin
16 economic segment conducted Dr. Ray Supalla and how it
17 specifically cited the Upper NRD and Imperial as taking
18 an economic brunt of the proposed regulation.

19 What you may not recall is that that
20 economic study was based on considerably less harmful
21 regulations proposed as of May of 2004. Since then, for
22 example, designated quick response well acres have
23 extended into the Upper Republican NRD. At that time I
24 don't believe they were included. They have also
25 increased in size from a mile radius to 2 1/2 mile

1 radius. And if you talk to Dr. Supalla as I have, he
2 will tell you that the solution being offered, the CREP
3 program has a potential to cause more harm than it does
4 good.

5 Also why haven't other legitimate
6 alternatives and solutions been incorporated or
7 substantially endorsed by the Upper Republican Board in
8 the proposed IMP. These include the North Platte River
9 water transfer proposal and other transfer proposals,
10 tree management along the river banks and since the
11 state, like many people have said, signed us up for this,
12 why aren't they lining up to retire their irrigated
13 school sections first?

14 As far as my opportunity to speak here
15 tonight I would encourage the Board to be aware of the
16 fallacies that the recreational economy, I believe you
17 heard a little bit about this in the stakeholder meeting
18 on Tuesday, recreation, despite being a potential
19 supplemental economic activity cannot replace
20 agriculture.

21 Certain elements specifically the
22 administration of the Nebraska Game & Parks Commission, I
23 believe its name is Gable House and economists imported
24 from Oregon have proposed that recreation be our
25 salvation as though a buffalo steam park will slow

1 population decline in this region. I doubt all of us
2 would qualify as tour guides, myself included.

3 If I could ask the Upper Republican Board
4 one thing tonight it would be to remember the elections
5 of last November. I distinctly remember someone in the
6 lead up to the elections describing it as a referendum on
7 water policy in this district. It certainly was.

8 As you listen to your constituents tonight
9 and well, this would have been a few hours ago, I hope
10 you're keeping a tally of those who support and oppose
11 the IMP. And remember count only your constituents.

12 You are neither appointed by the Nebraska
13 unicameral nor the Department of Natural Resources. You
14 are not elected by the administration of the Nebraska
15 Game and Parks. You do not answer to the water policy
16 task force. You are charged with the responsibility of
17 representing your constituents and representation in this
18 case is voting according to prevailing will of those you
19 stand for. Compare the correlation between your informal
20 count tonight and the elections of last November and vote
21 that way.

22 As for the IMP unless it is substantially
23 modified count me against it. Thank you.

24 HEARING OFFICER: Does anyone else wish to
25 offer evidence or testimony?

1 MR. CEDRICK MCDANIEL: I probably won't
2 use the mic because I sometimes get loud when I get
3 excited. If I need to, I will. My name is Cedric
4 McDaniel from Imperial. That's C-E-D-R-I-C, McDaniel.
5 And I come to speak, it was about a year ago we were in
6 this same place. And this was just kind of getting in
7 full swing.

8 And a representative -- well, actually
9 I'll go back. Let's go to October 20 you guys went to a
10 meeting at the Super 8 Motel and a representative from
11 DNR, and I believe some of these DNR people were there,
12 told you that this IMP and everything that is going on is
13 not about water quantity.

14 He did not care that we had been saving
15 water for 20-some years. He told you guys, some of you
16 members weren't there, but a lot of you guys were there.
17 He told you that this was about compact compliance.
18 Right out there he told you, DNR representative of DNR
19 told you that. We'll come back to that.

20 The other thing I have noticed is since
21 this has got started in the last few months people are
22 starting to come out of the woodwork, organizations, Game
23 & Parks has all of a sudden come out of the wood work.
24 You guys have been fighting this for how many years.
25 Game & Parks in the February meeting I believe asked the

1 NRD for a variance or permission to open up a well that
2 was drilled in 1977, if I'm not mistaken. They want to
3 open that well because they're having problems keeping
4 their spring running.

5 Well, two things came to mind when they
6 said that. Number 1, they drilled the well real close to
7 the stream. So when they turn the well on the spring
8 sucks dry. Makes a lot of sense to me why don't they put
9 it someplace else.

10 Number two, they must have known that this
11 problem was going to happen since 1977 because they spent
12 the money to drill this well. And now all of a sudden
13 here they come. Well, you got wonder what they've been
14 doing.

15 Then all of a sudden we have a PR bit
16 about how the fish have died in Champion Lake. I don't
17 understand that. I read the paper. I guess, I don't
18 have it here this exact quote. But I have to take the
19 paper for what it's worth.

20 In the paper they said that they knew
21 about these fish dying this summer, that they were dying
22 slowly and they should do something about it. Well, if
23 Game & Parks is so good I believe that there is a state
24 statute 46-691.03 that says they could have come to the
25 NRD and asked for some help to do something, some way to

1 solve this problem.
 2 You know, I'm not real bright but I do
 3 know if you ignore a problem it's going to come up and
 4 bite you. So why weren't they there earlier this summer
 5 when they could do it. I'm tired of reading about it in
 6 the Omaha and Lincoln and every other paper in the state.
 7 If they want -- As an NRD Board you have
 8 to ask yourselves, if they want to be part of this
 9 organization, if they want to be part of this solution
 10 then why aren't they here helping us and all of a sudden
 11 they're just trying to cause trouble.
 12 The next part I have is surface water
 13 users. You know we have some ground water users that are
 14 losing water just like surface water users. What I don't
 15 understand is the state came in, the Bureau of
 16 Reclamation built these dams and did all this stuff.
 17 Well, the government has been supporting
 18 these guy's water for years. They don't have near the
 19 pumping cost, near the production cost of water that we
 20 have. Now, all of a sudden, you know, if they had been
 21 paying fair market value for this water all these years
 22 maybe they could have lined their canal system, maybe
 23 they could have lined their reservoirs systems.
 24 You know, I don't like to see anybody
 25 without water. Every week, every day I have people come

1 into my business that can't water any more because their
 2 water table is dropping. We all realize it's been
 3 dropping. We've known this for 27 years. We've been
 4 trying to do something about it, but we get no credit for
 5 it.
 6 We've all been to meetings were we get the
 7 big pat on the back, Good, job, ha, ha, fools, you know.
 8 It's not right. Then the State when this thing all
 9 started, you know, Kansas told -- has publicly said that
 10 if this -- if Nebraska would have shut off their drilling
 11 this lawsuit would have never happened. Ask them,
 12 they've told us that. They've said it in public
 13 meetings.
 14 But the State in their infinite wisdom
 15 again chose to ignore it and let everybody keep drilling,
 16 let the other NRD keep establishing allocated acres,
 17 drilling wells, and got us into this mess. And they
 18 don't want to have to deal with it. They don't want to
 19 have to own up. I don't think that's right.
 20 The State got us into this. They could
 21 have shut down the drilling. They did not. They could
 22 have made those other NRDs pay heed and they did not.
 23 You guys -- You know, it doesn't -- I
 24 don't like what they're doing. They never want to own
 25 up. They need to own up to it. You know, and I -- You

1 guys have worked your asses off and some of the board
 2 members aren't here anymore.
 3 The IMP is not perfect. But if anyone
 4 goes any further than this all they have to do is read
 5 the Omaha, the Lincoln paper, the city, the voting
 6 majority in this state it is in the city. It is no
 7 longer out here with us. You have -- We have to do
 8 something. If we do not the state will come in and close
 9 us down. You go, yeah, it may not be now, it may be a
 10 year from now, it may be at some time. To me the IMP
 11 that you guys made is what needs to be done.
 12 And to those of you who say 6 inches is
 13 the answer, sustainable irrigation is the answer. Well,
 14 you remember back to that first meeting that was here
 15 when Roger Patterson stood right there and I asked Robert
 16 Ambrosek about sustainability and Roger Patterson about
 17 sustainability. No one would answer -- There was two
 18 different answers.
 19 If you go talk to the state they think
 20 sustainability is economic sustainability. Our
 21 sustainability is irrigation sustainability, water.
 22 That's our lifeblood, that's your lifeblood, that's my
 23 lifeblood, that's everybody that's here's lifeblood.
 24 If we go to 6 inches Roger Patterson told
 25 you right here if we go -- if we give it all, they'll

1 take it. And the other NRDs will not do anything.
 2 You guys, if you guys have to ride the
 3 middle of the road. This is one of the dumb ass times
 4 that you have to do that. If you don't do anything the
 5 State will come in. If you do too much we're going to be
 6 the only fools doing anything. What you guys are doing
 7 is the right thing to do. And I appreciate what you're
 8 doing. Thank you.
 9 HEARING OFFICER: Do we have anybody else
 10 that wishes to testify? Perhaps not. If you do please
 11 come forward and we'll hear what you have to say.
 12 (No response.)
 13 HEARING OFFICER: I'm going to take it
 14 that we're all done with testimony. Thank you all very
 15 much. I know the Board appreciates all of your comments.
 16 We've got a little housekeeping to do. I've marked
 17 Exhibits 1 through 22 inclusive of 21-A and B. And I
 18 tried to receive all of them as they were marked. I
 19 believe they were all received. I'm also going to
 20 reiterate that the complete record of the first hearing
 21 we had this morning(sic) is incorporated into this here,
 22 so that evidence and that transcript will be part of this
 23 hearing as well.
 24 And I want to remind you that this record
 25 will remain open for seven days. So I assume that's the

1 10th. I'm pretty good. At 5:00 p.m. delivery of
2 materials to the NRD office here in Imperial on West 5th
3 Street.
4 I thank the Board for its attention. I
5 thank the audience particularly for coming out tonight
6 and offering us your words of wisdom. And I mean that
7 sincerely.
8 It's 4:00 p.m. you've got to have the
9 stuff there on the 10th by 4 p.m. It will be put into a
10 record, the transcript of all the testimony, all the
11 written documents. That's what the Board will use to
12 deliberate. Thank you and good night.
13 (Hearing concluded at 9:49 p.m. Exhibit
14 Nos. 23 through 28 were marked at the
15 close of the hearing and received at that
16 time. Exhibit Nos. 29 through 39 were
17 marked and received within seven days
18 after the close of the hearing. Exhibit
19 No. 40 was marked and received when it was
20 completed.)
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