

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Application of Northern States Power Company for a waiver of procedures and time schedules, a certificate of corridor compatibility, and a route permit authorizing construction of the North Dakota portion of a 345 kilovolt electric transmission line and associated facilities to be constructed from St. Cloud, Minnesota to near Fargo in Cass County, North Dakota

CASE NO. PU-07-759

Fargo City Commission Room
200 3rd St North
Fargo, North Dakota

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1 JUDGE WAHL: Good morning. I am Al Wahl,
2 the administrative law judge pursuant to temporary
3 appointment designated by the Office of
4 Administrative Hearings upon the request of the
5 North Dakota Public Service Commission to serve as a
6 hearing officer for this hearing.

7 This is a hearing of the application of
8 Northern States Power Company for a waiver of
9 procedures and time schedules, a certificate of
10 corridor compatibility, and a route permit
11 authorizing construction of the North Dakota portion
12 of a 345 kilovolt electric transmission line and
13 associated facilities to be constructed from
14 St. Cloud, Minnesota to near Fargo in Cass County,
15 North Dakota. This is North Dakota Public Service
16 Commission case number PU-07-759.

17 Before proceeding with the hearing I will
18 ask the Commissioners for their comments and any
19 directions for the hearing.

20 Commission Chairman Tony Clark.

21 CHAIR CLARK: Good morning to everyone
22 and welcome and thank you for being here.

23 This project in this area is one that the
24 Commission is very familiar with. Not only has it
25 been going on for some time, but all three

1 Commissioners have in some way or another a
2 connection to the Fargo area, either being from here
3 or lived here for awhile or in the surrounding area.
4 So it's one that we're very familiar with.

5 The importance of today's testimony and
6 today's hearing I want to talk just a little bit
7 about. As I said, we've dealt with this particular
8 case in a number of iterations throughout. This is
9 really, in a sense, the third type of proceeding
10 that we've had with this particular line.

11 The first two were called an advance
12 determination of prudence and a certificate of
13 public convenience and necessity and the Commission
14 has already dealt with those. I'll explain just a
15 little bit about what each of those are and then
16 talk about what we're doing here today.

17 An advance determination of prudence,
18 which the Commission has already, as I said,
19 approved, basically is -- was the company's chance
20 to come to us and ask does this look like a prudent
21 investment. So it's really an investment standard.
22 It's -- it has to do with the fact that they're a
23 rate regulated utility company and at some point are
24 they going to have an opportunity to recover in
25 rates this particular project. But at that point we

1 don't know exactly where the line is -- the
2 transmission line is going to go. In this case the
3 Commission determined that it was a prudent
4 investment from a financial standpoint, from a
5 ratepayer standpoint.

6 The second type of proceeding is called a
7 certificate of public convenience and necessity, or
8 CPCN. And basically in a CPCN type proceeding,
9 again, it's more because they're a regulated utility
10 company. A cooperative, for example, Cass County
11 Electric, wouldn't need to come in for a CPCN and
12 wouldn't need to come in for an advance
13 determination of prudence. But there you're looking
14 at need. Is it a needed project, does the company
15 have the managerial, the technical, the financial
16 ability to operate the project, to run the project.
17 And in that case we also indicated that, yes, it's
18 something that was needed. This, we determined in
19 that case what's known as a reliability line, it's
20 something that's needed, the engineers are telling
21 us is needed to improve reli -- electric reliability
22 in the region, and we determined that Xcel has the
23 financial, managerial and technical ability to
24 operate and run the line.

25 And all of those things don't speak to

1 what we're dealing with today. Which is where does
2 the line go if it's needed and if it's a prudent
3 investment. And that's today's hearing. This is,
4 rather than a sort of utility regulatory hearing,
5 this is really more of an environmental hearing.
6 Does the line itself, where it's proposed to go,
7 does it mitigate impacts on the natural environment,
8 on the human environment, on people, on cultural
9 resources, so on and so forth. So it's really
10 dealing with physically where the line is going, is
11 it the optimal solution for the project that they've
12 proposed. And that's what we're going to be sorting
13 through today.

14 Just a few words about the kind of
15 proceeding that we hold. This may be a little bit
16 more formal than you're used to. If you've
17 testified in front of the city commission in this
18 room or the county commission or a legislative
19 hearing, it's more formal. It's not because we want
20 to intimidate anyone from talking, in fact, it's
21 just the opposite, but it's because state law says
22 that we have to hold a hearing like this in a
23 proceeding like this.

24 Basically, anything the Commission
25 decides in this case has to be developed on the

1 record. It has to be developed through evidence
2 that's submitted to the Commission and the testimony
3 that folks will give, and Judge Wahl will have an
4 opp -- will call up folks, you have an opportunity
5 to give testimony to the Commission. It'll be under
6 sworn oath. All of those things are because we have
7 to make the decision based on the record in front of
8 us.

9 And on the way in we happened to have the
10 radio on and were listening to Joel on the radio and
11 he was talking about this particular project. Joel
12 is a friend, but nothing he said on the radio I can
13 take into consideration, it's only the things that
14 happen in this hearing. Or sometimes we'll have a
15 hearing, this has happened a few times, where we'll
16 admonish the people who may testify, you've got to
17 talk to us, you know, here in front of the
18 Commission, and then as soon as the hearing is
19 closed they'll catch you in the hallway outside and
20 say that's really interesting, but what you really
21 need to know is this. At that point I can't take
22 any of that into consideration.

23 So it's all a way of saying and really
24 stressing that if you have something to say, if
25 there's, you know, any piece of information either

1 for the project, against the project, you think that
2 there's a problem with where it's going here but you
3 think it might be better over there, that's what we
4 have to hear today because if it comes after today
5 then we're not going to have legally an opportunity
6 to take that into consideration.

7 So, with that, I'll turn it over to my
8 fellow Commissioners. But, again, just thank you
9 for the turnout and thank you to the Fargo City
10 Commission, the City of Fargo, for making this
11 facility available to us, this makes for a very
12 comfortable and hopefully facilitate a good hearing
13 this afternoon. And this morning.

14 JUDGE WAHL: Commissioner Kevin Cramer.

15 COMMISSIONER CRAMER: Thank you, Your
16 Honor, and good morning and welcome everybody.

17 Commissioner Clark has laid it out very
18 nicely. I would maybe just add that we hear a lot
19 these days about the energy development in North
20 Dakota, we know that North Dakota is a major energy
21 producer and a major energy exporter. And we often
22 talk about the availability of export constraints
23 and availability of more export capacity for
24 especially the electricity generated in North
25 Dakota.

1 This line is one small part of a much
2 larger development of transmission lines throughout
3 Minnesota and the region that are built largely,
4 intended largely to shore up the reliability of our
5 grid. And we all know how important a reliable
6 service of electricity is. But it also has some
7 export capacity issues as well. So, important
8 stuff.

9 But as Tony said, our job today is to
10 ensure that while it may be needed and necessary,
11 it's a prudent investment. It's important that
12 where it goes is important as well. Where it goes
13 is as important as the fact that we need it at all.

14 Because it's our job to ensure that it's
15 done well, that development, energy development in
16 North Dakota is done in a prudent way, that it's
17 done in a way that has minimal adverse impacts on
18 cultural and natural resources, the welfare of our
19 citizens, that we make efficient use of our
20 resources, and that we do all of that while we also
21 are bullish on our great state.

22 So it's important work. We've heard a
23 lot from folks up to this point sort of here and
24 there on different aspects of it. This is our first
25 opportunity to really hear the evidence.

1 Now, I will say this: The company has
2 filed a lot of prefiled testimony. In fact, sitting
3 on my desk, thank God we can get it all on a
4 computer, are three binders that size and then
5 another large file folder about that size, and all
6 of that is prefiled information, it's all going to
7 be taken in as evidence this morning, along with the
8 application. And then we're going to hear new
9 evidence from the company, it's their case to be
10 made.

11 But we could do all of that in a hearing
12 room in Bismarck. We're in Fargo not to accommodate
13 the company or the Commissioners or any of the other
14 bureaucrats, but rather to accommodate the
15 landowners and the citizens most affected by this
16 investment decision.

17 So it appears we have no problem
18 maximizing the opportunity and the potential of
19 citizen involvement, it's why we're here. And my
20 admonishment, like Commissioner Clark's, and you'll
21 hear it from others before we're done here, is
22 whatever you do, do not walk out of this room, out
23 of this place after the gavel has fallen and the
24 hearing is closed wishing you had said something
25 that you didn't. This is your moment, not only to

1 inform us, but it's our moment to hear from you.
2 We're here because for us to do our work well we
3 need to hear from the people most closely affected
4 by it.

5 So, with that, we look forward to a good
6 hearing. Yes, I'm from the area, my folks still
7 live out in Kindred, I was a greenskeeper at the
8 Oxbow Country Club in college, and I have great
9 familiarity with pretty much every inch of where
10 this -- where this line is scheduled to go at least
11 for now.

12 Thank you.

13 JUDGE WAHL: Commissioner Brian Kalk.

14 COMMISSIONER KALK: So what's left to
15 add, right? I guess just basically a reinforcement
16 that both my colleagues talked about it, I mean,
17 when I worked at NDSU, I lived down south on 81, I
18 know this area very well. And the thing is that we
19 do come out here to hear your thoughts. We
20 understand what all the company's input, we
21 understand all of our staff input, but what we don't
22 quite maybe have seen the full picture on is what it
23 is you want to bring to this equation. So you've
24 really got to step up to that microphone, say why it
25 is you think this is a good or not a good project

1 and give some reasons because of that. 'Cause at
2 the end of the day we go back and we make the
3 decision based on the record.

4 And both my colleagues have talked about
5 it, but it happens every hearing. We hear all the
6 testimony, the Judge says the case is done, we get
7 out in the hallway and somebody will grab us and say
8 this is what you have to know. So if we have to
9 know it, please step forward, we want to hear it.

10 And thank you all for coming today, I
11 look forward to a good hearing.

12 JUDGE WAHL: Thank you, Commissioners.

13 The record will show that it is a little
14 past 10:00 a.m., January 30, 2012, at the City
15 Commission Room, Fargo, North Dakota. The time,
16 date, and place for the hearing of the Application
17 of Northern States Power Company for a waiver of
18 procedures and time schedules, a certificate of
19 corridor compatibility and a route permit
20 authorizing construction of the North Dakota portion
21 of a 345 kilovolt electric transmission line and
22 associated facilities to be constructed from
23 St. Cloud, Minnesota to near Fargo in Cass County,
24 North Dakota, all as I have previously stated and as
25 is set forth in both the notice of filing and notice

1 of hearing issued by the Commission December 21,
2 2012 and shown by the map which is part of the
3 notice. Which has all been duly noticed and
4 published in accordance with the requirements of
5 statute and rule.

6 The Commission's notice of filing and
7 notice of hearing specified the following issues to
8 be considered and determined upon this hearing:

9 First, will the location, construction
10 and operation of the proposed facilities produce
11 minimal adverse effects on the environment and upon
12 the welfare of the citizens of North Dakota?

13 Second, are the proposed facilities
14 compatible with the environmental preservation and
15 the efficient use of resources?

16 Third, will the proposed facility
17 locations minimize adverse human and environmental
18 impact while ensuring continuing system reliability
19 and integrity and ensuring that energy needs are met
20 and fulfilled in an orderly and timely fashion?

21 And fourth, is it appropriate for the
22 Commission to waive procedures and time schedules as
23 requested, including the request for a single
24 consolidated application for a corridor certificate
25 and route permit?

1 Mr. Simpson, please state your appearance
2 for the record.

3 MR. SIMPSON: Zev Simpson, Briggs and
4 Morgan, on behalf of Northern States Power Company,
5 the applicant.

6 JUDGE WAHL: And Ms. Agrimonti.

7 MS. AGRIMONTI: Thank you, Your Honor.
8 My name is Lisa Agrimonti, I'm also here on behalf
9 of the applicant.

10 JUDGE WAHL: Mr. Armstrong, please state
11 your appearance for the record and the appearance of
12 Commission staff who will participate for the
13 hearing.

14 MR. ARMSTRONG: Mitch Armstrong, Special
15 Assistant Attorney General, on behalf of the Public
16 Service Commission. With me is Jerry Lein, Public
17 Utility Analyst at the Commission. I move that
18 Mr. Lein be allowed to ask questions today.

19 JUDGE WAHL: Motion granted.

20 Before we begin, let me echo the
21 Commission in urging anyone who wishes -- who has
22 any information that they wish to have the
23 Commission know about this matter speak at the time
24 that we can do that, at the conclusion of Northern
25 States Power's presentation.

1 I will -- well, we may not have a recess,
2 we started a little late this morning, but either at
3 a recess or at the time of the -- of the noon hour,
4 or noon lunch break, I will be glad to talk with
5 anyone who wishes to address the Commission and
6 bring any information that they have to the
7 Commission for its consideration.

8 If you have documents, if you have
9 photographs, a map, a statement of some information
10 that you want the Commission to have and have be
11 part of the record, I will be glad to mark that as
12 an exhibit for you, I will assist you in offering
13 that as evidence to be part of the record. I will
14 be glad to answer any questions that you have
15 regarding your testimony. I can't, of course,
16 answer any questions that you may have concerning
17 Northern States Power's application, but I can
18 certainly answer any questions that you may have
19 about how you can address the Commission, what
20 information you can give to the Commission and how
21 you can do that. And I'll be very happy to do that.

22 I expect that anyone who has testified to
23 the Commission before does not -- certainly doesn't
24 need to talk to me, I'm not saying -- certainly I'm
25 not saying that you need to speak to me before you

1 can address the Commission. Nor should you hesitate
2 that if you're sitting there now and thinking, well,
3 there's really, I think -- there's really nothing I
4 have to add. But if as you hear a witness or you
5 hear other people testify or you hear questions that
6 the Commission or the lawyers have, you think during
7 the course of the hearing, you know, there's really
8 something I want to tell the Commission, but you
9 haven't talked to me, don't worry about not talking
10 to me, don't really worry about your questions.
11 When I call for additional testimony from the
12 public, stand up, come forward, I'll ask you your
13 name, your address, your post office address, I'll
14 administer the oath, and you can tell the Commission
15 what you want them to know. And you'll do just
16 fine, trust me.

17 Mr. Simpser.

18 MR. SIMPSE: Your Honor, I'll defer to
19 my colleague, Ms. Agrimonti, for conducting the
20 hearing.

21 JUDGE WAHL: Ms. Agrimonti.

22 MS. AGRIMONTI: Thank you. Good morning
23 Commissioners, good morning, Your Honor.

24 I have a few brief introductory remarks,
25 after which we will call Darrin Lahr, the routing

1 lead, as the primary witness today for the
2 proceeding.

3 As the Commissioners have noted, this is
4 a project identified for regional reliability, in
5 particular the Red River Valley area, including
6 Fargo. This has been studied for some time and this
7 is one of the last major proceedings for
8 constructing the project between St. Cloud and
9 Harmony Township where the Bison switching station
10 is proposed to be located.

11 The identified corridor and route in the
12 applicant's application from October satisfy the
13 state's avoidance criteria, exclusion criteria and
14 siting criteria, and we believe it minimizes impacts
15 to the environment and human settlement.

16 The company has worked diligently to
17 incorporate comments from landowners, local
18 authorities and other stakeholders to develop the
19 route that's before you. They have also been
20 acquiring the necessary land rights to construct the
21 project.

22 As of today there are 70 percent of the
23 landowners who have either signed easements,
24 options, or pending agreements, and another 10
25 percent who have not signed but have otherwise

1 authorized the company access to the property for
2 preconstruction activities, including survey work
3 that was requested by the state SHPO.

4 Today we are seeking a variance to the
5 timetables and procedures for consideration of a
6 joint certificate of corridor compatibility and
7 route permit. And specifically requesting a
8 corridor width of 300 feet that's coextensive with
9 the pedestrian survey that's been completed and will
10 be completed on all the parcels within the route
11 area. This route is shown on Exhibit 2. The
12 applicant also requests authority to construct the
13 Bison switching station and connect it to the
14 Jamestown-Maple River 345 line at that location.

15 As I mentioned, Mr. Darrin Lahr, the
16 routing lead, will be the witness. We also have a
17 number of subject matter witnesses available should
18 questions arise that Mr. Lahr is not able to answer.
19 And we'll ask each of those individuals to stand
20 when I introduce them, beginning with Mr. Dan Kline.

21 Mr. Kline is the manager of regulatory
22 administration for transmission at Northern States
23 Power Company. He is also the engineer primarily
24 responsible for the planning for this project and
25 can answer technical and need questions.

1 Next is Mr. Jerry Chezik. Mr. Chezik is
2 the project manager within the company who is
3 responsible for schedule costs and actually
4 constructing the project. So if there are questions
5 about any of those particular matters he is
6 available to answer those questions.

7 And then the third subject matter witness
8 who's available is Danelle Murphy. She is with ERM
9 and she has been supporting the permitting and
10 corridor and routing processes for the project. And
11 she was the staff person primarily responsible for
12 assisting Mr. Lahr in putting together the
13 application.

14 So without further adieu, I will request
15 that Mr. Lahr be called as a witness.

16 JUDGE WAHL: Mr. Armstrong, I assume you
17 do not have an opening statement?

18 MR. ARMSTRONG: That's correct, Judge.

19 JUDGE WAHL: Ms. Agrimonti, do you have
20 exhibits to offer?

21 MS. AGRIMONTI: I do, Your Honor.

22 Mr. Armstrong and Mr. Simpser have spoken beforehand
23 and we'd like to stipulate to the introduction of
24 Exhibits 1 through 28.

25 JUDGE WAHL: Mr. Armstrong?

1 MR. ARMSTRONG: We agree, Judge.

2 JUDGE WAHL: Exhibits 1 through 28,
3 inclusive, are each received.

4 Now, Mr. Lahr. Mr. Lahr, as you know,
5 your testimony is required to be under oath and I'm
6 required by law to advise you regarding perjury
7 before administering the oath.

8 Perjury is a false statement of material
9 fact which you do not believe to be true. In North
10 Dakota perjury is a Class C felony, punishable by a
11 fine up to \$5,000, imprisonment for a period of up
12 to five years, or both.

13 Will you raise your right hand, please?

14 Being advised regarding perjury,
15 Mr. Lahr, do you swear that the testimony which
16 you're about to give in this matter shall be the
17 truth, the whole truth, and nothing but the truth?

18 MR. LAHR: I will.

19 JUDGE WAHL: Ms. Agrimonti.

20 MS. AGRIMONTI: Thank you, Your Honor.

21 DARRIN LAHR

22 EXAMINATION

23 BY MS. AGRIMONTI:

24 Q Mr. Lahr, I want to make sure your microphone is on
25 or close enough to you.

1 A It appears to be.

2 Q Thank you.

3 Would you please describe your position
4 and responsibilities with Northern States Power
5 Company?

6 A Certainly. I am the -- what's considered to be the
7 routing lead within the company for the project. My
8 role is to work through the environmental process,
9 to develop route applications and permit
10 applications at the state level, the federal level,
11 and the local level.

12 Q What exactly have been your responsibilities with
13 respect to the Fargo to St. Cloud project?

14 A I oversaw the putting together of the route
15 application, worked with the landowners on community
16 outreach that was done throughout the project.
17 Responsible for communications with media, as well
18 as working with some of the local governments on
19 local permitting.

20 Q What are the components of the project for which
21 you're seeking approval from the Commission?

22 A The components of this project that we're seeking
23 approval for are the switching station that is at
24 the Bison end of the line, the north end of the
25 line, as well as the actual towers and wire down to

1 the North Dakota border.

2 The line is to be built double-circuit
3 capable, meaning that it will initially carry one
4 transmission circuit. However, the poles will be
5 built in such a fashion that they will be able to
6 handle carrying a second circuit in the future when
7 it's needed.

8 Q And why is the initial project needed?

9 A The need for the initial project is sort of
10 three-fold. As was alluded to earlier, one of the
11 big reasons for this project is reliability. This
12 area of the state is fairly transmission dependent
13 and when the engineers, the planning engineers look
14 at the system and the contingencies necessary,
15 there's a need for additional transmission into the
16 area, it helps the whole southern Red River Valley
17 area keep the lights on, keep the power flowing.
18 That's one of the reasons.

19 Another one of the reasons is renewable
20 generation and regular generation. This line will
21 create additional capacity for the grid to be able
22 to have additional export of power.

23 And, lastly, just to deal with the
24 ongoing growth of electric use in our system, in our
25 country. While the economic downturn has taken a

1 little toll on use, it really is still a very
2 long-term process to site transmission lines. We've
3 been talking about projects like these for nearly a
4 decade and we need to look long term and make sure
5 that this stuff is in place to be able to handle all
6 the future system needs.

7 Q Mr. Lahr, the application filed by the company was
8 submitted in October. Is that Exhibit 1 that's
9 before you? I don't believe it's marked.

10 A Yes, it is.

11 Q Okay. And the company's also provided detailed maps
12 showing the route that's proposed, that's Exhibit 2,
13 and then some general maps that are shown on the
14 back wall as well; is that correct?

15 A That is correct.

16 Q All right. And the company has fully executed the
17 certification for the Commission and that would be
18 Exhibit 10?

19 A Yes, that is the certification.

20 Q Since the filing of the application have there been
21 any modifications to the proposal?

22 A There has been one modification to the proposal.
23 Initially it was proposed that the Bison substation
24 would be a substation. It would, in fact, contain
25 transformation and interconnect with the existing

1 230 line that's in the area.

2 At this point there's been a decision
3 made to hold off on setting that transformation now
4 and just set switching equipment to switch into the
5 Jamestown line. So what we will have is an initial
6 phase will be a switching station rather than a
7 substation. In the future, once the 230 is
8 connected in, it would then transform into a, no pun
9 intended, transform into a substation.

10 Q Mr. Lahr, is the company still proposing to acquire
11 the same amount of property for the Bison switching
12 station?

13 A Yes. We are still proposing to acquire the 80 acres
14 in that area. With transmission and substations we
15 feel it's prudent and good planning to make sure you
16 have enough area around to be able to have good site
17 control and access.

18 Q And how much property is that?

19 A That's 80 acres.

20 Q The company's requesting that the Commission approve
21 a variance to consider both the corridor
22 compatibility and route permit in a single
23 proceeding. Can you please explain what led the
24 company to ask for that variance?

25 A Yes, I can. Originally we had intended to file the

1 certificate of corridor compatibility, work through
2 that regulatory process, and then file subsequent to
3 that the route permit application, looking at a
4 timeline that would put us in service with the line
5 at the end of 2015. The first phase of that would
6 have been last spring for the corridor compatibility
7 application. And due to some of the flooding issues
8 and other priorities, it seemed prudent to back away
9 from that application at that time and yet seek a
10 combined application for this fall to still be able
11 to meet the project's timing. It seemed like the
12 prudent thing to do at the time and so that's what
13 we chose to do. So that's why we're seeking a
14 combined corridor and route application.

15 Q Let's turn now to the processes that led to the
16 development of the corridor and the route request.

17 How did the company identify corridors
18 and a proposed route? What was the process that was
19 undertaken?

20 A The process that we used to route the transmission
21 line and look at different options is iterative. We
22 look at the avoidance and exclusion criteria in the
23 code and we apply that and put forward some initial
24 routes and routing areas and corridors, corridor
25 areas, various corridor widths. And then we go out

1 to the public and we talk to the public about the
2 options that we're considering, why we're
3 considering, try to get more information from the
4 local landowners about things that maybe we don't
5 know and work that into our process.

6 Through that process, one of the things
7 we learned was of the diversion project and its
8 potential relation to the transmission line. There
9 was some discussion and desire by local government
10 officials as well as landowners to see if these two
11 linear projects, the diversion going around the area
12 as well as our project, could be somehow collocated,
13 or at minimum have our project be not inside of and
14 on the dry side of the diversion project. So we
15 took that back in, began to work with the Army Corps
16 of Engineers on their plans, and tried to get a good
17 understanding for how those processes would work.

18 And when we did the next iteration of our
19 routing process what we came forward with was we
20 didn't view it to be appropriate or prudent to be
21 sited with the diversion project. The timing
22 associated with the diversion, some of the
23 uncertainty, the construction of it going from north
24 to south, all led to a process that really didn't
25 meet the time needs of this particular project.

1 There were no technical problems between the two
2 projects, but the timing and the ability to move
3 those forward together just seemed unworkable.

4 What we did do, though, is we narrowed
5 our routing options and our corridor options to an
6 area that would put us more south of the diversion
7 project, so that we'd be on the wet side, if you
8 will, of that project. We then went out to the
9 public with those corridor and route options. Again
10 held public outreach meetings, got more feedback,
11 came back in with that feedback, refined the routes,
12 and eventually last spring we went out with what we
13 viewed as a likely -- a likely alternative for our
14 route, taking into account all the avoidance and
15 exclusion factors. So it's an iterative process.

16 Q What is the current status of the diversion project
17 with respect to the location of the proposed route?

18 A The current location of the diversion is
19 approximately three-quarters of a mile north of the
20 entry point of the line into North Dakota. And we
21 parallel it for approximately five or six miles,
22 where it then begins to break to the north and we
23 continue a bit to the west before we break north.
24 It is still moving along. It is making progress.
25 But it's still not at a point where we view it as

1 being favorable towards our project. We think the
2 route that we've got south of it is a much safer
3 place to be.

4 Q What efforts has the company made to obtain
5 easements for the proposed route?

6 A The company has been doing discussions with
7 landowners through our land rights group since last
8 spring. We had sent out mailings and began with a
9 land management team to go out and talk to
10 landowners about what we were looking at with
11 regards to the actual route within the corridor.

12 In working through that process, we're
13 currently at a point where -- let me back up one
14 step. To the degree we were able to, we would sign
15 an option with a landowner for an easement. So it
16 wouldn't be the executing of the full easement at
17 this point, but it was an option for an easement.
18 And at this point we are about, as Lisa said, 70
19 percent of the landowners we either have agreements
20 with or agreements are pending, and total we're
21 talking about 85-ish landowners that are impacted by
22 this particular project.

23 We continue to make efforts with the
24 landowners. It's not a -- in our view this is not
25 a -- a couple of contacts and you're done type of an

1 issue. This is a very personal issue to folks and
2 we need to keep working with them.

3 Q Do you have an understanding from the company's
4 perspective why agreements have not been able to be
5 reached with all of the landowners?

6 A Yes. I think it's a big transmission line. And
7 there are folks that just simply don't want to see
8 it by their property. And in many ways these linear
9 projects, transmission lines are somewhat like
10 pipelines in the way they affect the landscape,
11 however, the transmission line has a visual impact.
12 It is a different animal than a pipeline. It also
13 has an impact on farming operations where somebody
14 will now have to farm around the pole.

15 And so we wind up with sort of -- I guess
16 I would bucket it in three different camps. We've
17 got folks who just simply don't want the
18 transmission line on their property. They don't
19 like it, they don't like the impacts that it creates
20 and they don't want to see it happen. We also have
21 a batch of landowners that believe that the
22 compensation that the company's offering isn't
23 adequate and they'd like to see additional
24 compensation, maybe, to move it a little further.
25 And the third bucket is folks who really want to see

1 if this routing process is going to go forward.

2 We've been talking about this line for
3 literally years and it has come to a point now where
4 we are actually at the hearing, and we do have
5 landowners that want to see if it's -- is it really
6 going to happen, is the Commission really going to
7 approve this line, is this really going to move
8 forward. And until they understand it's going to
9 move forward they're not ready to finalize it.

10 Q What will the company be doing going forward to
11 obtain the remaining necessary agreements?

12 A We need to continue to work with the landowners. As
13 I mentioned earlier, this is a very personal process
14 for people, it's their property, it's their land and
15 we're coming in with a facility. And we think that
16 we can negotiate through most of the issues, we
17 think with continued discussion about the project,
18 about the access, about the impacts to the land,
19 potentially placement, if that becomes a significant
20 obstacle, that we can work through these issues.
21 We've been successful doing that in the past and we
22 believe that we can be successful in doing that in
23 the future. Again, it's an iterative process, we
24 need to keep working with folks and seeing if we
25 can't put some of the concerns to rest.

1 Q All right. Mr. Lahr, I'd like to turn now to the
2 State Historic Preservation Office. Can you pull
3 out Exhibit Number 6 in front of you?

4 A Yes, I have it.

5 Q All right. Can you please describe what that is?

6 A Exhibit 6 is a letter received from the State
7 Historic Society with regards to the archaeological
8 aspects of the transmission line. Let me just make
9 sure this is the archaeological and not the
10 architectural history one. My apologies, this is
11 the architectural history report.

12 Q Okay.

13 A So we have -- we have made an application, provided
14 a report to the State Historic Preservation
15 Office -- hang on. This may not be the approval.

16 Q No, Mr. Lahr, let me stop you right there. This is
17 the initial letter --

18 A Yes.

19 Q -- as I understand, with the state office asking for
20 some additional work from the applicant.

21 A I apologize. I jumped the gun and went to the
22 approval that we had received.

23 Yes. This is, in fact, the SHPO asking
24 us for more information about the impacts to the
25 project on the corridor.

1 Q And what did the company do in response?

2 A Well, we did the survey. The company went ahead and
3 talked to the State Historic Preservation Office
4 about sort of the scope of the survey that would be
5 required, and in the end agreed to a 300-foot wide
6 pedestrian survey with regards to archaeological
7 impacts. And then we also talked about a 1,000-foot
8 radius from each tower location for the
9 architectural history aspect of that. And then we
10 started those efforts.

11 Q Are Exhibits 4 and 5 summaries from the reports that
12 were provided to the State Historic Preservation
13 Office?

14 A Yes.

15 Q Okay. And then Exhibits 7, 8, would be their
16 response received after their review?

17 A Yes, those look more familiar.

18 Q And is it fair to say that the state office is
19 satisfied with the company's work to date with
20 respect to those properties where access was
21 available?

22 A Yes, it is.

23 Q And what is the company going to do -- let me back
24 up.

25 How did the company attempt to get

1 additional access to lands where no agreement had
2 been reached with the landowner to accomplish this
3 additional investigation?

4 A To begin with, when we began the architectural
5 survey portion and archeology portions of the
6 survey, it was in November, and what we did is we
7 worked with areas that we had access to the land.
8 Not having permission to go on all properties, it
9 was a limited number of properties that we could do.
10 It was about 65 percent of the properties or so that
11 we did have access to.

12 We then went forward and conducted the
13 survey on those properties, pulled together the
14 reports, and submitted them to the SHPO. We will
15 continue that effort once we have the permission
16 from the landowners to survey the rest of the
17 project.

18 Q And is that a satisfactory process to the State
19 Historic Office?

20 A Yes, it has been a satisfactory process.

21 Q All right. The company will also need to obtain
22 necessary approvals from local government units for
23 the project; is that right?

24 A Yes, it will.

25 Q What is the status of the company's effort to obtain

1 necessary local approvals?

2 A We have been working with the local townships and
3 the cities in areas where we need conditional use
4 permits. Those applications have been filed. And
5 in four of the instances we have received the
6 conditional use permit and we are setting up or
7 getting ready to attend meetings this week and later
8 in the month on some of the other conditional use
9 permits to finalize those as well.

10 MS. AGRIMONTI: I will just advise that
11 documents 11 through 24 relate to the applications
12 and the permits received and that Exhibit 28 is a
13 summary document relating to those requests.

14 BY MS. AGRIMONTI:

15 Q Are there any open issues with local government
16 units for the project?

17 A There's a couple of areas that we are still working
18 through. One is Warren Township. And Warren
19 Township, in the meeting that was held with them,
20 had the conditions for their conditional use permit
21 in thought, but not in word. And that moved forward
22 through the township's attorney to sort of codify
23 what it was they'd like to see in their conditional
24 use permit. My understanding is they also would
25 like to see that as part of a state routing permit.

1 However, that will obviously be up to the Commission
2 to decide how they want to handle that.

3 The other is the Mapleton area. When we
4 originally went out and talked with the landowners
5 on the route that we selected, we were about a half
6 a mile east -- excuse me, further west of Mapleton.
7 In working with the landowners in the Mapleton area
8 and north, they sought an alignment that would shift
9 the route over towards the east towards Mapleton.

10 We looked at it from an impact
11 standpoint, from the avoidance criteria, and saw
12 that it was a reasonable route to be able to try to
13 accommodate those landowners' concerns. And it
14 still remained on those landowners' property, it
15 didn't move to someone else's property.

16 It did, however, move to a location where
17 the arms at the top of the pole now overhang into
18 the city. So while the pole base is in the
19 township, the arms are overhanging into the city.
20 And that is requiring a conditional use permit from
21 the city. So we made an application there.
22 However, we've been told by the City of Mapleton
23 that they will need that application in the names of
24 the landowners that are impacted there, and that has
25 not yet been moved forward.

1 Q The City of Fargo also submitted a letter into this
2 docket in November of 2002 with some concerns about
3 the corridor and the compatibility of the poles in
4 flooded areas. How has the company responded to
5 that letter and what is the current status of the
6 City of Fargo's position, as you understand it?

7 A As we continued the routing process, the corridor
8 emanated more than three miles from a center point
9 and in towards the city of Fargo. And that the City
10 of Fargo was concerned that that corridor offered an
11 opportunity for the align -- the route within the
12 corridor to move towards the city of Fargo. Which
13 was not our intention. Our intention was to be in
14 the south side of the diversion project. So in an
15 iteration of the routing process we removed and
16 narrowed some of that corridor that was associated
17 with that and highlighted the route that the line
18 would actually take, which is south of the diversion
19 project.

20 One of the other issues raised by Fargo
21 was that would the company be seeking any
22 compensation if at some reason in the future due to
23 the diversion project there was a need to move the
24 poles. And the answer from the company has been no.
25 The poles will be designed and appropriate for the

1 area that they're in south of the diversion project.
2 So our understanding right now is the City of
3 Fargo's position is that they have no opposition to
4 it.

5 Q Okay. And that's reflected in their more recent
6 letter, which is Exhibit 27?

7 A Yes, that is correct.

8 Q All right. Turning now to the construction
9 schedule. Please describe what the anticipated
10 construction schedule and activities are for the
11 project?

12 A At the point we are right now and the schedule that
13 we're looking at moving forward, we would like to
14 continue to work through the permitting this year
15 and work with the landowners on land rights and
16 acquisition this year. We would like to be in a
17 position to be able to begin construction this
18 coming winter, the winter of '12-'13.

19 What we find is that winter construction
20 works very well for both the landowner and the
21 company. Frozen ground is very helpful and a good
22 way to mitigate damage.

23 Our phasing would put us in a situation
24 where we would -- we would be attempting to install
25 foundations, which in this case are concrete

1 columns. Essentially we will come out with a 8-foot
2 auger and we will drill a hole that is somewhere
3 between 30 to 60 feet deep, and it will be a
4 concrete column. We would do all of those
5 foundations, not necessarily the transmission pole
6 or the line work, but just the foundations
7 throughout the coming winter that I've just
8 mentioned and the subsequent two winters so that we
9 can get all the foundations in in those cold
10 periods.

11 We would then come back in the 2014 sort
12 of time frame and begin putting up the poles on
13 those installed foundations. We want to be able to
14 have all the foundations in place so that once we
15 move to the actual pole and line construction there
16 isn't any holes in the sort of continuous round, if
17 you will, from one end to the other. So that would
18 be a 2014 activity. And then we would come back
19 again after the poles are constructed and begin to
20 string the wire.

21 Areas that we see for mitigating some of
22 the impacts, again, are frozen ground construction,
23 we also will be using a lot of matting associated
24 with the project to help protect the land, and also
25 we will be considering the trade-offs of using a

1 helicopter for the actual wire stringing to see if
2 we can help reduce impacts on the ground as well.

3 Q All right. The last topic I'd like to cover,
4 Mr. Lahr, is ownership of the project. You
5 mentioned the revision to the Bison substation to be
6 a switching station. Is it still the intent that
7 Northern States Power Company would be the sole
8 owner of that facility?

9 A Yes. Northern States Power would be the owner of
10 the switching station.

11 Q Okay. How about the transmission line itself?

12 A The intent of the project is that there will be five
13 owners of the project at the end. It will be Xcel
14 Energy, Otter Tail Power, Minnesota Power, Missouri
15 River Energy Services, and Great River Energy.
16 Those would be the five owners. And at the time
17 appropriate we would come back to the Commission to
18 make sure that we had the ownership certificate
19 straight with the Commission's rules.

20 MS. AGRIMONTI: Your Honor, that
21 concludes our testimony from Mr. Lahr and on behalf
22 of the applicant.

23 JUDGE WAHL: Mr. Armstrong.

24 MR. ARMSTRONG: Thank you, Your Honor.

25 EXAMINATION

1 BY MR. ARMSTRONG:

2 Q Mr. Lahr, you discussed some of the issues with
3 landowners who have not signed agreements and you
4 mentioned that 70 percent had signed agreements.
5 I'm wondering the percentage of the length of the
6 line that does not have signed agreements, if you
7 can give me some details on that?

8 A I don't have it by length, I apologize. We only
9 have it by parcel and landowner accepted.

10 Q Are these areas kind of in the same area or are they
11 spread out throughout the line?

12 A Well, we have two areas that are sort of largely
13 challenges along the line. The area directly north
14 of Oxbow is an area that has -- has, by the
15 landowners, seen the desire for further development
16 and they believe that the transmission line in the
17 Oxbow area would impede that development. So that's
18 been a general portion of the project that has been
19 somewhat difficult.

20 A second portion of the project that is
21 somewhat difficult is up south of the Mapleton area.
22 There are a couple of unique issues in that area.
23 One is the Kraft airports, some private use airports
24 that are in the area, air strips. And the other is,
25 in that same vicinity, a bend that the line takes as

1 it passes through there.

2 There are two Western Area Power
3 Administration lines that run east-west in this
4 location. And right directly in line with the
5 project are their structures. And we cannot share
6 structures with them so we have to angle around them
7 so you see a change in the alignment. And it has a
8 greater impact on the associated landowner, it has
9 that additional 45-degree angle has a greater impact
10 on those properties. So that's another vicinity
11 that we've had some troubles with.

12 Q You have Exhibit 2 in front of you, I see, it's the
13 one you're touching right now?

14 A Yes.

15 Q So if we just look at that first page, the Oxbow
16 area would be kind of where it says Map 40?

17 A Yes. Map 40 and Map 39 are the Oxbow area.

18 Q Okay. And then the other bend area, would that be
19 kind of the Map 8 area?

20 A Actually, the areas up towards Map 13 and Map 12,
21 Map 11.

22 Q And I think you mentioned those are kind of the
23 majority of areas where you have nonparticipating
24 landowners at this time?

25 A Those are the largest challenges that we currently

1 face.

2 Q Let's talk a little bit about that Oxbow area. Is
3 there -- as I understand it, the river crossing's
4 been approved by the Minnesota Public Utilities
5 Commission?

6 A Yes. The Minnesota Public Utilities Commission
7 approved the route in June of this past year. And
8 it's a wider area to allow for some flexibility
9 through there, but the alignment has been
10 preliminarily chosen to the location that it is
11 right now. And it meets up with the North Dakota
12 route on the western side.

13 Q And how wide of an area do you have to work with
14 there?

15 A It's a mile and a quarter, I believe, in the
16 Minnesota side, and then we would match up wherever
17 we needed to on the North Dakota side. The
18 constraint there is the pending diversion project.
19 The diversion is approximately three-quarters of a
20 mile north of our crossing location. And that
21 location, from our understanding from the Corps of
22 Engineers, is good for them because it's a very
23 straight portion of the river so they like that
24 portion. Moving closer to them is not a very good
25 option for us. Moving south is Oxbow. So if we

1 move the route any further south, then we wind up
2 closer to the residential areas that are associated
3 with Oxbow.

4 Q And since you mentioned the diversion project, is
5 there any anticipated impact on this route and
6 corridor with the diversion project?

7 A No, they're compatible. In our discussions with the
8 Corps we've talked about the future depths of water
9 in that area, the frequency of the inundations. And
10 there's still a lot of issues that they're working
11 through that will impact how that all finally plays
12 out. But we believe we understand it well enough
13 that it won't -- it won't compromise the project at
14 all.

15 Q Are there any other areas besides this, you know,
16 south of Mapleton area and the Oxbow area where
17 there's, you know, some contiguous length of line of
18 the proposed route where there's nonparticipating
19 landowners involved?

20 A I can't point to anything specific only because we
21 continue to work through these areas with the
22 landowners and literally things were changing. Even
23 as we were coming into last week, additional
24 agreements were signed, additional landowners were
25 coming on board. So I don't know that I can

1 characterize anything else.

2 Q Okay. And I know you said you don't have an
3 approximation of the percent of the line length, the
4 proposed line length that has not been signed, but
5 do you have an idea, is it more than the 70 percent
6 or less than the 70 percent, if you could?

7 A I mean, it would be speculation and I am a little
8 leery to do that. If you look at what we have, we
9 have, you know, 70 percent of the landowners that
10 have -- that have either agreed or are pending a
11 signature right now. We have another 10 percent of
12 the landowners that have granted us access to the
13 property for purposes of survey, which gets us to
14 about 80 percent of the landowners. I don't have a
15 good means to equate that back to miles, but it is,
16 I mean, a sig -- it's a significant portion of the
17 line that is fairly well under tow.

18 Q And would these two areas, the Oxbow and the south
19 of Mapleton area, be also the areas, then, where
20 Class III agricultural surveys have not been
21 conducted in large part?

22 A Correct. The Class III survey would not have been
23 done on any new parcel that was signed after what is
24 essentially the first week of November of this past
25 year.

1 Q And if that -- this route is approved, I assume the
2 company would agree that no construction would begin
3 until that's completed and SHPO has concurred with
4 those findings?

5 A That is correct and that is our understanding with
6 SHPO.

7 Q I guess the river crossing seems to be a fairly
8 important part of this since it connects with
9 Minnesota. What is the status of construction in
10 Minnesota?

11 A In Minnesota for this project, the -- the first
12 eastern 28 miles has been completed in the
13 Monticello to St. Cloud first segment. The second
14 segment that's being constructed is from St. Cloud
15 to Alexandria. That's the next substation location
16 for this project. That construction has started on
17 the Alexandria end and is now working its way to the
18 east and will continue into the coming year.

19 We are now contacting landowners on the
20 balance of the Alexandria to the north -- or, excuse
21 me, to the North Dakota border for final easements
22 and those types of legal documents to begin securing
23 those as well. But it is all moving forward on a
24 schedule that puts us looking to construct up here
25 sometime next winter.

1 Q Is it, you know, taking the whole line together, is
2 it basically the Minnesota side will be constructed
3 and then the North Dakota side, or is it kind of all
4 in parts?

5 A Because of this winter issue, because of the desire
6 to work on frozen ground in areas where there's a
7 challenge, we would propose to be constructing up
8 here the winter of '12-'13 as well as doing
9 construction in Minnesota. So there will be
10 multiple crews that are working on this project. We
11 want to take advantage of every winter opportunity
12 we can. So we won't just have it slowly move up the
13 line over time, we're going to be working multiple
14 areas simultaneously to be able to mitigate some of
15 the impacts.

16 Q Do you know, in the river crossing area, the Oxbow
17 area, is this -- what is the status? You mentioned
18 kind of the three categories of landowners where
19 you're having issues. Is this one that just doesn't
20 want the line, is this one that they think the
21 compensation is not enough, or is this one or more
22 that want to see the routing process go through?

23 A I'm not certain which category the landowners in
24 that area fall into. I know that there is an impact
25 on the trees in the area that would have to be

1 removed adjacent to the river in order to make the
2 line crossing occur, and I know there's been some
3 landowner concern about tree removal and that's part
4 of that area.

5 Q Is this area a number of landowners or is it
6 primarily one larger landowner?

7 A There is a developer that is in the, sort of, north
8 of Oxbow area, that has some of the land that is
9 seeing that as a next development that really
10 doesn't want the line in that portion of it.

11 Q Do you know, is that a platted development or is
12 there any curb and gutter, so to speak, or anything
13 like that done in that area currently?

14 A I believe it's platted. I believe there is not curb
15 and gutter.

16 Q Since we're on Exhibit 2, can you turn to the first
17 map, Map 1, and this is the switching station area?

18 A Yes.

19 Q As I understand it, this switching station now
20 changed from a substation but, anyway, is there any
21 change on the environmental impact from a change
22 from a substation to a switching station?

23 A No, it won't -- it won't change the environmental
24 impact. In practice what will happen is that there
25 will be a fenced area that will contain the electric

1 equipment that will be a subset of this parcel, and
2 the area around it will likely continue to be farmed
3 and there would be no change from an environmental
4 standpoint to the area.

5 Q And as I'm looking at this map, it looks to me like
6 we've got a whole section there, and the pink area,
7 as I understand it, is the proposed Bison switching
8 station site, but I think that would be more than
9 the 80 acres asked for for the switching station
10 site; is that correct? I guess what I'm getting at,
11 if that's a section, we've got 640 acres in a
12 section --

13 A I don't believe that is full section, though. Is
14 that not a half section or is it a section? I
15 apologize, I can't tell from the scale here. The
16 parcel that we're purchasing from the landowner is
17 an 80-acre parcel.

18 Q And you're asking us to site that 80-acre parcel; is
19 that correct?

20 A That is correct. And then we will submit the plans
21 and the plan and profile for that as that design is
22 complete.

23 Q And as I understand it, all the cultural surveys and
24 environmental studies have been able to be conducted
25 in that area?

1 A That's my understanding, yes.

2 Q Do you know, are there -- are there any residences
3 within the proposed route within 500 feet of the
4 line?

5 A There are no residences within 500 feet of the line.
6 We do have one that is close, but it is not within
7 500 feet of the line itself.

8 Q And in the application, you mentioned a little bit
9 during your testimony, there was some talk about
10 this Kraft airport. Could you give us a little more
11 detail on this Kraft airport?

12 A I can. And I might direct you to some maps here.
13 Give me a second. It should be Map 12 and 13.
14 Actually, it's Map 14, I apologize.

15 Q Okay.

16 A On Map 14, you can see on the eastern edge of that
17 map there is an air strip and it is within half a
18 mile of the line. And that is a personal use
19 airport. Mr. Kraft has been part of the routing
20 discussions since early on and has expressed
21 concerns about what the appropriate proximity from
22 the transmission line to an air strip should be.

23 Being a personal airport, there are no --
24 no specific guidelines in that area. We certainly
25 would look to some type of mitigation measure, such

1 as marking the line, potentially shorter structures,
2 under the 150-foot mark, but those are the concerns
3 that are in that particular area. Mr. Kraft also
4 has the Western Area Power Administration line north
5 of him running east and west.

6 Q I'd just like to maybe take a look. If you could
7 point that air strip out on the map (inaudible - no
8 mic)?

9 A You bet. That would be this location right here.

10 Q Okay. I'm afraid I can't find it.

11 MR. SIMPSON: It's the very far edge, the
12 far eastern edge of Map 14.

13 THE WITNESS: On Map 14 you'll notice it
14 says 162nd Avenue Southeast.

15 BY MR. ARMSTRONG:

16 Q Right.

17 A On the eastern edge. The area that's immediately to
18 the east of that is about a quarter of an inch wide
19 on your map, that is all an air strip.

20 Q Okay.

21 A I apologize, on the aerials it's sometimes hard to
22 pick this stuff out.

23 Q And as I understand, at least you're continuing to
24 work with Mr. Kraft on constructing the line in a
25 way that doesn't affect his private air strip?

1 A The land agents have been continuing to work with
2 the landowners in that area, it's not just
3 Mr. Kraft. I did receive a report late last week
4 that there was a request by someone, and I can't say
5 that I know who, to consider moving the line
6 potentially to the west a half a mile and that that
7 might solve the concerns.

8 A first iteration in looking at that, it
9 does -- it does trade impacts. We currently have
10 impacts associated with the Kraft airport. If we
11 were to move the line to the east there's
12 residential property on the southern end that would
13 potentially be impacted, so that would have to be
14 taken into account as well on any type of reviewing
15 of a different route.

16 Q And could you give me an idea what's been done? You
17 know, we have kind of these two areas, which this
18 area is part of where there's nonparticipating
19 landowners, then we have the Oxbow area. What has
20 been evaluated as far as whether -- whether those
21 areas can be moved or avoided in the routing
22 process?

23 A The routing process tries to take into account
24 impacts associated with the line. All impacts
25 are -- are not mitigatable, if you will. There's a

1 balance of impacts associated with every landowner
2 on this route, and what they believe is the
3 appropriate distance between their property, or
4 whatever their area of concern is, and the line.
5 And it's a unique set of impacts for each area.

6 Our role as the company is to attempt to
7 work with each landowner on an individual level to
8 try to resolve those conflicts. And so I would -- I
9 would argue that our methodology, our efforts, are
10 to continue to discuss with the landowner what the
11 concerns -- what answers to those concerns there
12 might be, what other alternatives or options there
13 might be, whether that comes in the form of payment
14 or marking or, like I said, lower structures, or
15 whatever the case may be, we continue to make those
16 efforts.

17 So I guess I can't give you a -- a
18 definitive for this property owner we do this, for
19 that property owner we do that. I mean, it's an
20 ongoing effort to try to get to the bottom of what
21 makes the line acceptable.

22 Q As far as the Oxbow crossing, then, would that
23 property be able to be developed if this line went
24 through it?

25 A It all depends upon the Army Corps of Engineers'

1 project. In talking with the Corps even last week,
2 in that particular area, certainly it appears to be
3 in the area that's currently slated by the Corps to
4 be three feet -- I believe it's two to three feet or
5 more under water in an area that would be relocated,
6 as opposed to those areas that are less inundated
7 where they would have ring dikes and then, less than
8 that, flowage easements.

9 But the project, as it stands right now,
10 isn't funded, we don't know when they'll start, we
11 don't know what types of suits might come after it's
12 approved. So from our perspective it's a live issue
13 until -- until it gets finalized. But clearly the
14 area looks to be definitely impacted by the
15 inundations that the Corps is contemplating.

16 Q There was also some discussion in the application
17 about the Hamery (phonetic) airport?

18 A Yes.

19 Q Could you maybe show us where that is at on the map?

20 A It actually won't show up on these maps 'cause it's
21 too far away.

22 Q Okay.

23 A The Hamery (phonetic) airport is east of the line,
24 in a line not too far east of the area we're talking
25 about right now and south of the Kraft airport. And

1 that is an airport where we will have to make an FAA
2 submittal of our plan and profile, the heights of
3 the poles, so that they can review it in their
4 system and make sure that there aren't any impacts.
5 We don't anticipate any heighth impacts associated
6 with that airport at all.

7 Q Is that process started yet or is that something
8 that comes later?

9 A We have not made that application yet, we would do
10 that later.

11 Q And in your experience with this line -- I
12 understand that's a public airport?

13 A That's correct.

14 Q And would this line, in your experience, raise any
15 concerns that you know of with the FAA or anything
16 of that nature?

17 A Based on the distances, it should not.

18 Q But regardless, you have to get FAA approval?

19 A That's right. That's absolutely right. Regardless.
20 Once we have a final plan and profile and heights,
21 then we submit that to the FAA and they will make
22 the final determination.

23 Q What is done to connect the switching station with
24 the Jamestown line? Is that line already in that
25 area?

1 A Yes. If you look at the map that has the switching
2 station on it, which is Map Number 1, you will see a
3 red line that runs east and west, it bisects the
4 page and runs on the north edge of the pink block.
5 That's the existing 345 Jamestown line. It will be
6 brought into the switching station area and
7 interconnected with, through sets of relays and
8 breakers, to the new transmission line that's being
9 built into the area. Just for reference, you can
10 also see the blue and black dashed line, that is the
11 230 line that would be brought into the substation
12 at some point into the future.

13 Q And now as we've looked through these -- these --
14 these maps a little more, it appears to me, since
15 we're on the substation, that where it says Section
16 11 on Map 1, that appears to be the southeast
17 quarter of Section 11, and you're asking to be sited
18 the south half of the southeast quarter, that 80
19 acres of Section 11 for this switching station, does
20 that sound right?

21 A That sounds correct.

22 Q Thank you. And as far as connecting with the
23 Jamestown line, in this proceeding you're not asking
24 for us to even touch that because the line goes
25 through, you're asking us to site the substation and

1 the route and corridor for the CapX portion of the
2 Fargo line, correct?

3 A That is correct. Of note, as long as we're on the
4 topic of the switching station. This is the reason
5 for the location of the switching station, is it is
6 the convergence of multiple different lines in this
7 particular area. If we move the substation, what we
8 wind up doing is just building more transmission,
9 which is not what folks want.

10 Q Now, you talked a little bit about the local
11 approvals. Have you -- are you confident that all
12 the local approvals will -- that you'll be able to
13 meet all the legal requirements of the local
14 entities that have not -- you have not received
15 approval from yet?

16 A We believe we will be able to mitigate those issues
17 to their satisfaction.

18 MR. ARMSTRONG: I'll turn it over to
19 Mr. Lein at this time.

20 JUDGE WAHL: Mr. Lein.

21 MR. LEIN: Thank you, Your Honor.

22 EXAMINATION

23 BY MR. LEIN:

24 Q Just a couple of quick -- I don't know if you're the
25 right witness for this or not, but I'm looking at

1 3-5 in the application and it says that landowners
2 may request payments in annual installments. Do you
3 know how many years they could ask for those to be
4 carried out over?

5 A I do not.

6 Q But there may be somebody else that could do that?

7 JUDGE WAHL: Ms. Agrimonti.

8 MS. AGRIMONTI: We are looking. We may
9 need to come back to that after a break. I believe
10 it's dictated by statute.

11 UNIDENTIFIED: We believe it to be five
12 years.

13 BY MR. LEIN:

14 Q Okay. There was a table of existing transmission
15 lines that are being crossed and that's on page 7-8.
16 And those are in addition to the WAPA and the
17 Minnkota lines that you just discussed on the
18 substation drawing, right?

19 A Yes, it appears to be.

20 Q Okay. Then on page 7-16 it talked about there are
21 no residential buildings within 500 feet, but there
22 are five nonresidential buildings within 500 feet of
23 the proposed route. Are those like barns or
24 something? Or there's no places of business or
25 anything, there's no avoidance area there?

1 A There's no avoidance area, no.

2 Q Okay. On page 7-22, we talked about microwave beam
3 paths, and it said that interference could occur
4 from the construction of the project. Has that been
5 resolved?

6 A I believe that's a general statement, as far as it
7 could occur. If anything were to occur, it would be
8 resolved through working with the company.

9 Q Okay. And I had one other quick question. On page
10 7-37 it said that irrigation systems were avoided to
11 the extent practical. Were there any irrigation
12 systems that weren't avoided?

13 A No.

14 MR. LEIN: Okay. Thanks, that's all I
15 had.

16 JUDGE WAHL: Questions from the
17 Commission?

18 Commissioner Clark.

19 CHAIR CLARK: Just a couple.

20 EXAMINATION

21 BY CHAIR CLARK:

22 Q Thank you, Mr. Lahr, for your testimony.

23 You'd answered Mr. Armstrong's question
24 with regard to the 500-foot avoidance area, you said
25 that one residence was fairly close. What is the

1 closest residence to the line?

2 A I would say it's at 500 feet, maybe 520 feet,
3 depending upon how -- how close you measure to the
4 edge of the house. In this one instance, where the
5 house was close and we weren't perfectly certain, we
6 did go and talk to the landowner about that
7 alignment. We actually did secure a waiver just in
8 case we were a little closer than we thought we
9 were.

10 Q Is that at its closest to any portion of the line?
11 Thinking about your comment about Mapleton, where
12 you have the arm hangover, is it from the centerline
13 of the pole or --

14 A It's generally from the centerline of the pole. But
15 the easement, then, being 150 feet wide, does reach
16 into that 500-foot zone. And, again, in order to be
17 prudent, we were trying to make sure that we had
18 that covered with the --

19 Q But if it's --

20 A -- waiver.

21 Q -- that close to the centerline of the pole, is
22 it -- I suppose depending on which way the arm
23 hangs, is it within the 500-foot border with the
24 overhang of the arm or any pertinence that comes off
25 the pole?

1 A I do not believe so, but we can track that down and
2 get it in the plan and profile when we submit that.

3 Q Okay. I think that would be good to verify that. I
4 think the -- I don't know that it's defined anywhere
5 exactly in the rule, but it would seem to be the
6 intent of the rule that anything associated with the
7 line itself be at least 500 feet from the --

8 MR. SIMPSEY: Commissioner, Judge Wahl,
9 we have maps, if that would be helpful, that we can
10 enter into the record so you can take a look as to
11 how that all works.

12 CHAIR CLARK: I think we just need
13 something in the record that indicates that it is
14 actually physically 500 feet from any portion of the
15 line and, if not, then I'd recommend a waiver be
16 signed.

17 MR. SIMPSEY: We have that available.

18 CHAIR CLARK: Okay. Do we need to
19 indicate a late-filed exhibit, or is that --

20 JUDGE WAHL: I don't think so,
21 Commissioner. Mr. Simpson, Mr. Armstrong?

22 MR. SIMPSEY: I don't believe
23 Mr. Armstrong has had an opportunity to review it.
24 We can handle it either as a late-filed exhibit or
25 after so we don't interrupt everybody.

1 JUDGE WAHL: Well, let's do that at a
2 recess or the noon hour, as the case may be, and we
3 can address that later then. Thank you.

4 CHAIR CLARK: Very good. Thank you.

5 BY CHAIR CLARK:

6 Q I'd like to talk a little bit about the decision
7 with regard to where the line crosses the Red River.
8 What drives the decision to have that line crossing
9 be between Oxbow and the diversion as opposed to
10 some area further south of Oxbow?

11 A One of the reasons for the -- or I shouldn't say one
12 of the reasons for the line. One of the reasons for
13 the crossing point to be as far north for us as
14 possible is the future growth and development of the
15 Fargo region.

16 This transmission line is going to help
17 bolster this whole area long into the future. One
18 of the things that we can envision is that this line
19 will need to be connected with other lines that are
20 currently running north and south in the Fargo area.
21 So it was the company's goal to push this alignment
22 as far north as it possibly could so that it would
23 be able to interconnect with those future facilities
24 or the existing upgraded facilities in the future
25 easier.

1 The further south we go, again, the more
2 transmission we would have to build in the future.
3 So part of our goal was to keep it as far north as
4 we possibly could. And that was one of the
5 rationale for the location that we chose. We
6 actually had another crossing location further north
7 of this that was probably our preferred when we
8 started, before we learned about the diversion
9 project and its location. So this became sort of
10 the next closest position and still being outside of
11 the diversion project.

12 Q Um-hum. How much more transmission are we talking
13 about than if it were, say, just a few miles further
14 south? And the reason I ask is, I mean, is there --
15 can an argument be made that you're trying to put a
16 line in too narrow an area, that that area between
17 Oxbow and the diversion is just -- it's just too
18 small a window to fit that thing in for the --
19 considering development that might go on in the
20 future and given the trade-offs you might be better
21 just a little further south?

22 A I think when we start -- I mean, it is really, I
23 mean, literally a matter of miles. I think we
24 already feel as though we are pushing the edges of
25 where an interconnection there will be effective in

1 the future.

2 I think, also, when we look at it from a
3 sensitivity standpoint, the transmission line
4 corridor is 150 feet wide. The area that we're in
5 is generally open cropland. There is some potential
6 for future development in that area. But it is an
7 area that is going to be significantly impacted by
8 the diversion project. And to the extent that that
9 does, in fact, go through, it seems like long term
10 we're actually impacting fewer landowners in being
11 in a place that is going to be agricultural,
12 potentially, eventually, and to us, and, again,
13 it's, you know, a reading of the area, to us it
14 seemed like a better place to be rather than worse.

15 Q Okay. The -- you said pushing the limits of where
16 the interconnection is effective. Could you explain
17 what you mean by that?

18 A So we've got existing transmission running north and
19 south in the Fargo area. At some point in the
20 future we would be connecting that just like the
21 substation would be located somewhere south by the
22 345. So this existing 345, that existing 230, or if
23 it has to be upgraded in voltage or potentially
24 double-circuited or something to that effect. But
25 your metropolitan area is where the load is. So the

1 further we push out, the harder it is to maintain
2 the voltage in there without doing something
3 different.

4 A couple examples might be we might have
5 to increase the voltage from a 230 line to a 345
6 line going into the Fargo area to be able to handle
7 the future loads. So it's a series of trade-offs,
8 as far as how -- what are you going to do to fix
9 that problem. Again, from our perspective, the
10 closer we can be, the better position we're going to
11 be in to have more decision-making tools in the
12 future.

13 Q Okay. And then a final question. You had mentioned
14 the potential for helicopter stringing of the wire.
15 The Commission, this last week, we happened in
16 another proceeding, in an Otter Tail proceeding,
17 they showed us the clips that I think are probably
18 available on You Tube, of folks out there working
19 off the helicopters and imploding them when they
20 string them together, so on and so forth.

21 That's primarily how it's been
22 constructed in the portion of the line that's been
23 constructed so far, right, between Monticello and
24 St. Cloud? Is there anything different in this
25 region which would indicate you wouldn't be able to

1 construct in such a method?

2 A No. And one might argue that it's probably more
3 ripe for helicopter construction than not. We need
4 to sort of run the comparisons. One of the big
5 issues that really helps mitigate is landowner
6 damages, which is one of the reasons why it's being
7 done so often on this project, is we have a lot of
8 wetland areas in those areas. So access is
9 difficult and the more times you're in and out the
10 more impact you have. So if we can do it with
11 helicopters, we eliminate all of that traffic. I
12 shouldn't say all of that traffic, that's a bad word
13 to use. But it significantly reduces the amount of
14 ground impact that we have. And up here that's
15 important.

16 CHAIR CLARK: Okay. Thank you.

17 MR. LAHR: Thank you, Commissioner.

18 JUDGE WAHL: Commissioner Cramer.

19 COMMISSIONER CRAMER: Thank you, Your
20 Honor.

21 EXAMINATION

22 BY COMMISSIONER CRAMER:

23 Q Thank you for your testimony, Mr. Lahr.

24 I want to explore a little bit, and I --
25 well, I want to explore a little bit the area of

1 questioning of Mr. Armstrong regarding the 70
2 percent of the landowners who have signed easements,
3 another 10 percent that are allowing at least a
4 survey on their land, and that versus the percentage
5 of miles. I don't think that's an unimportant fact
6 and I gather you don't know off the top of your head
7 what it is, but I would like before, either before
8 the day is out or some late-filed exhibit that could
9 perhaps provide that to us.

10 A We can provide that to you.

11 COMMISSIONER CRAMER: Perhaps a later
12 witness, counsel, or will we do it as a late-filed
13 exhibit?

14 MS. AGRIMONTI: Our preference would be a
15 late-filed exhibit.

16 JUDGE WAHL: All right. For the record,
17 counsel, that will be late-filed Exhibit 29. And
18 the description of the exhibit will be, what, a
19 schedule of what? Miles where landowner consent has
20 not been obtained?

21 MS. AGRIMONTI: Yes. And the flip side
22 would be where it has been obtained, yes.

23 COMMISSIONER CRAMER: Certainly.

24 JUDGE WAHL: Okay.

25 MR. ARMSTRONG: Is there the potential to

1 have the locations on there, too? Could we do it in
2 a map?

3 MR. SIMPSON: Sure.

4 MS. AGRIMONTI: Certainly.

5 JUDGE WAHL: All right. Then, let's just
6 describe the Exhibit 29 as a map showing locations
7 of line and landowner consents or not.

8 Otter Tail (sic) agrees to file the
9 exhibit, of course. Mr. Armstrong --

10 MR. ARMSTRONG: No objection.

11 JUDGE WAHL: No objection. Exhibit 29 is
12 received as a late-filed exhibit.

13 MS. AGRIMONTI: Your Honor, may I ask one
14 clarification?

15 JUDGE WAHL: Yes.

16 MS. AGRIMONTI: Thank you. As Mr. Lahr
17 testified, the negotiations with landowners are
18 continuing. I would propose that we provide that
19 exhibit as of the date we provide it rather than as
20 of today's date, if that's okay?

21 JUDGE WAHL: Mr. Armstrong?

22 MR. ARMSTRONG: That's just fine.

23 JUDGE WAHL: Commissioner Cramer?

24 COMMISSIONER CRAMER: I actually prefer
25 that. Thank you.

1 JUDGE WAHL: Anything further,
2 Ms. Agrimonti?

3 MS. AGRIMONTI: No, thank you, Your
4 Honor.

5 JUDGE WAHL: Commissioner Cramer.

6 COMMISSIONER CRAMER: Thank you.

7 BY COMMISSIONER CRAMER:

8 Q I also, then, want to pursue a little bit of the
9 history of where the line crosses the river.
10 Realizing, of course, that for the purposes of
11 efficiency, a company would always prefer the
12 shortest distance and the straightest line and all
13 of those things. Also realizing that access to load
14 is not unimportant in terms of voltage. But, of
15 course, we're here to consider the environmental
16 impacts and the impacts on citizens.

17 Early on and going through the maps
18 again, there was the possibility of a crossing that
19 was more closer to Fergus Falls, Wahpeton,
20 Breckenridge, as I recall, that would certainly have
21 covered more miles total, and certainly more miles
22 in North Dakota total had it come south to north
23 along -- I call it the I-29 corridor.

24 Are there some advantages to a route like
25 that, in terms of using existing corridors where

1 there's already a fair bit of development, or was
2 there such a great disadvantage it wasn't even
3 considered?

4 I'd like to have you just sort of walk me
5 through that a little bit just because -- and I'm
6 not advocating for it, mind you, because we aren't
7 hearing that portion today. But I'd like a little
8 bit of the historical perspective because it just
9 does seem to me that that crossing, that river
10 crossing is more than a little significant.

11 A The river crossing is significant. Thank you for
12 the question.

13 A little bit of the history. As we
14 started working this project, we had two states to
15 work with. We have North Dakota and Minnesota, both
16 which have unique regulatory processes. And those
17 unique regulatory processes had to be taken into
18 account.

19 One of the reasons for a significantly
20 further southerly crossing was to have two routes in
21 Minnesota, as is required by their regulatory
22 process. In a line, that if you think of what this
23 essentially does, is it runs a northwest-southeast
24 angle, and you're either going to build on the
25 hypotenuse of the triangle or you're going to build

1 the two legs of the triangle.

2 And for purposes of looking at the
3 environmental impacts associated with the route in
4 Minnesota, the wet areas that are constraining in
5 the Minnesota side of things led you to looking at a
6 freeway alignment as preferred over a straight
7 westerly alignment. And we didn't want to have the
8 river crossing be the driver for the route.

9 The routes have more impacts on
10 landowners for miles and miles and miles as they
11 continue from that river crossing, as opposed to
12 just the river crossing itself. Yes, there's an
13 impact on that river crossing, there's no doubt, but
14 if that river crossing changes the dynamics so much
15 for all of those landowners, you don't want that
16 decision to drive a worse environmental situation.

17 In our view, having the north crossing
18 versus the south crossing gave you, obviously, as
19 has been mentioned before, it's a shorter line,
20 there's no doubt, but there's also fewer overall
21 environmental impacts. I understand that you are
22 absolutely concerned with North Dakota, as you
23 should be, but in total there's 220 miles of line
24 that are creating the impact as we go here.

25 That northerly crossing to us at the end

1 of the day made less of an overall environmental
2 impact for the project as well as provided for a
3 project that was more cost-effective as we made the
4 decision as to which way to go.

5 Q Well, is it fair to say, though, that the Minnesota
6 portion was designed and sited prior to the North
7 Dakota application? I mean, it's already under
8 construction, obviously, in Minnesota, I understand
9 that it's, you know, it's a southeast to northwest
10 line.

11 My concern is this, and you brought it up
12 in the first sentence or two of your response to my
13 previous question. I want to make sure that another
14 state isn't driving the decision in North Dakota.
15 Because they have a tendency to do that, as you
16 probably know. And I realize that it's a bigger
17 state and that it's where your headquarters is and
18 all of those things, but my concern are the
19 landowners of North Dakota.

20 So I need to have a comfort level that
21 Minnesota's regulatory environment and policies and
22 politics isn't driving this siting decision for
23 North Dakotans.

24 A I don't think it is. I really don't think Minnesota
25 drove the decision in this process. And I think

1 that the two states' regulatory processes would have
2 been much closer together, and the way we had
3 originally envisioned it they would be unfolding
4 more or less about the same time, until the
5 diversion showed up. Once we started down trying to
6 figure out what the diversion meant to the project,
7 it delayed our review. It delayed our regulatory
8 filings in the State of North Dakota.

9 We also believe -- and folks will point
10 to cost, and cost is part of it, but we all know
11 cost goes to the ratepayers, but fewer lines of
12 transmission on the ground creates fewer impacts.
13 If you can reduce 10 or 20 miles of line, that's 10
14 or 20 miles of impact that you have reduced to those
15 landowners that would be associated with that 10 or
16 20 miles of line. And so you -- we, from a routing
17 standpoint, try to make these decisions as to, well,
18 what's more appropriate, is it better to impact an
19 additional 20 miles of landowners or is it better to
20 try to move through an area. Well, what are the
21 associated facts with that area? Meaning the Oxbow
22 area and the crossing there.

23 And so we take it as a very methodical
24 project wise effort. And it is not a Minnesota
25 versus North Dakota in any way, shape or form. And

1 I assure you, our intent was to have these processes
2 unfold simultaneously as opposed to one winding up
3 ahead of the other.

4 Q All right. Thank you. And I want to acknowledge
5 the fact that the diversion, obviously, and the
6 flooding, had an impact on the timing of all of
7 this. And we -- at least I appreciated that. It
8 would seem imprudent, certainly, to just sort of
9 plow ahead without consideration of obvious other
10 factors that are somewhat new to us.

11 COMMISSIONER CRAMER: So I have nothing
12 further, Your Honor. Thank you.

13 JUDGE WAHL: Commissioner Kalk.

14 MR. LAHR: Thank you, Commissioner.

15 COMMISSIONER KALK: Thank you, Your
16 Honor.

17 EXAMINATION

18 BY COMMISSIONER KALK:

19 Q Thank you for your testimony.

20 You talked a little bit about the
21 differences in North Dakota and Minnesota law, but
22 what's your opinion of the major differences in
23 siting in front of the Minnesota Utilities
24 Commission and the North Dakota Commission?

25 A My -- my opinion of how the processes unfold and our

1 view from sort of the routing world, if you will, is
2 that the -- the Minnesota process is a much more
3 top-down process, and that the North Dakota process
4 is a much more grass-roots process. And that may
5 seem like sort of a broad statement. But your
6 desire to have the local governments as part of the
7 decision-making process is a different flavor and a
8 different feel than the Minnesota process where the
9 Commission decides and the local government units
10 do. I think that's the big, big difference between
11 how the two states look at it.

12 You both look at environmental impacts,
13 you're both looking at sensitivities and how to
14 mitigate those and, you know, how to best construct
15 the line and use resources efficiently. I would say
16 the process here is a much more landowner oriented
17 process than the one in Minnesota.

18 Q Okay. The -- I guess expanding upon that a little
19 bit. You know, understanding the case in front of
20 us is either to accept or reject this request, but
21 to the extent upon what Commissioner Cramer was
22 talking about, you know, suppose that this
23 Commission rejected this and then the next thing we
24 recommend maybe it go somewhere else. How would
25 that affect the unfolding of what Minnesota has

1 approved? 'Cause my understanding is Minnesota has
2 approved this all the way to this actual river
3 crossing on their side.

4 A They have. And that was a very large -- a large
5 thought process that went on internally within the
6 company. The thing that Minnesota has, is it has a
7 loop-back, if you will, where you can do a route
8 permit amendment. Where you can amend the route and
9 go back to them and seek a change in the permit
10 that's already been granted.

11 So knowing that there was sort of this --
12 this loop-back process within the Minnesota
13 regulatory structure, framework, we believe that if
14 need be that we would be able to go back through
15 that to be able to make adjustments. Clearly a
16 significant route change, something on the magnitude
17 of a Breckenridge or something like that would be a
18 challenge. But nonetheless --

19 Q How far did you carry your studies on the -- the
20 initial filing we received back this summer -- I
21 just lost it -- you showed the corridor potentially
22 going down south on 29 and going across by Wahpeton,
23 how far down did you carry your studies? Has there
24 been any studies done on those, on that --

25 A They went down to that location. That was as far

1 south as we went with the crossings.

2 Q You talked about how this -- the proposed route now
3 gives potentially better reliability and access in
4 the future for the Fargo area. If a southern route
5 went through, would that give more reliability to
6 customers in that area?

7 A Potentially, but we don't have the same load need
8 down there. Really, from an electric density
9 standpoint, all of that is happening in the Fargo
10 general vicinity.

11 Q Okay.

12 A So being close to that, that hub, if you will, of
13 activity, is important to us.

14 Q You testified about how actually an even more
15 northern route would have been preferred if the
16 diversion was not in place. Can you walk me through
17 again why the diversion is such a big decision for
18 you? My understanding is you could build that
19 transmission line right through the diversion area
20 as long as you put the right spots for it to go.

21 A And the right spots for it to go become the problem,
22 as far as that final decision goes.

23 Q Which final decision? Of where exactly the
24 diversion is going to be built?

25 A Where exactly the diversion would finally be built

1 and the timing in which they would do it. If we
2 were to collocate with the diversion, let's say,
3 they have a very wide swath that they'll be creating
4 and they'll have the spill pile, as you guys are
5 probably all very familiar with, as they clear that
6 out. And where we would need to be in relationship
7 to that spill pile, how tall those poles would have
8 to be, when we would have to do that by, their
9 timing unfolds on a, you know, eight- to ten-year
10 basis depending upon congressional funding.

11 When we talked again last week, you know,
12 they still don't know if they're going to get, you
13 know, 200 and some million or if they're going to
14 get 80 million, or if they're going to be able to
15 get engineering money or how they're going to be
16 able to move that forward. And us, essentially, you
17 know, betting on where that's all going to shake out
18 over a ten-year period seemed really, really
19 imprudent. It seemed like the best thing for us to
20 do was to find a permanent home, reduce the impacts
21 as best we could and make sure that that was a safe
22 place to be for the line when everything was said
23 and done with the diversion.

24 Q So is there a series of meetings you've had, is
25 there any scenario that you've heard of where the

1 diversion might actually go south of this proposed
2 line you have in front of us today?

3 A I have heard that there are local proponents of
4 options like that. However, the Corps hasn't taken
5 those up at this point, to our knowledge.

6 Q Okay. The -- so what if the diversion isn't built?
7 Have we wasted ratepayer money?

8 A I'm not sure I understand the question, how we would
9 have wasted the ratepayer money.

10 Q If the diversion isn't built and it would be more
11 efficient to build the line to the northern route,
12 so we spent more money than perhaps we should have
13 on this project?

14 A The amount further north that we were looking was on
15 the matter of a few miles. I don't think we would
16 be saving that much mileage by doing something like
17 that from a ratepayer standpoint. We also got very,
18 very strong feedback from the local governments all
19 throughout that area that this was the future growth
20 of the area. And that -- this meaning, you know,
21 from Oxbow, you know, up north. And that they
22 really wanted our transmission facility out of that
23 future growth area if at all possible.

24 And in the discussions with regards to
25 the diversion, the view was that, you know, the

1 diversion is going to become our de facto growth
2 boundary if and when it happens, I mean, that's
3 where things are going to be built. And so if you
4 know where that's going to be, as best you can, be
5 outside of it.

6 COMMISSIONER CRAMER: Okay. Thank you.

7 MR. LAHR: You're welcome.

8 JUDGE WAHL: Further questions from the
9 Commission?

10 Follow-up, Ms. Agrimonti?

11 MS. AGRIMONTI: No, Your Honor.

12 JUDGE WAHL: Mr. Armstrong.

13 MR. ARMSTRONG: Just one.

14 FURTHER EXAMINATION

15 BY MR. ARMSTRONG:

16 Q I'm looking at the application map -- well, it's
17 page 4-8. And my question just is that the area
18 that's been approved in Minnesota?

19 A Page 4-8 or Figure 4-8?

20 Q It's Figure 4-4, page 4-8.

21 A No, that actually is a map of sort of all of the
22 routing area that was reviewed throughout the course
23 of the original project.

24 I would direct you to page 4-14 of the
25 application. And in that you will see a green

1 stripe that goes into Minnesota. And that is the
2 approved corridor as it stands right now in
3 Minnesota.

4 Q Okay. And then you said in Minnesota you have that
5 loophole, the alternative route, is that the small
6 map in the upper right that --

7 A Yeah.

8 Q The blue line, the alternative route?

9 A The loop-back process would create a new route.

10 Q Okay.

11 A It would be -- again, it would have to be an
12 amendment to the route permit taking an additional
13 route into consideration.

14 Q So right now you have one route to Minnesota and
15 there's a potential for a loop-back, but that hasn't
16 been designated?

17 A Correct.

18 MR. ARMSTRONG: Okay. Nothing further.

19 JUDGE WAHL: Mr. Lein, anything further?

20 MR. LEIN: No, Your Honor.

21 JUDGE WAHL: Follow-up by the Commission?
22 Commissioner Kalk.

23 COMMISSIONER KALK: I just had one
24 question.

25 FURTHER EXAMINATION

1 BY COMMISSIONER KALK:

2 Q Other than your testimony today about the farther
3 north the line is the better that be for the future
4 growth of the Fargo-Moorhead grid, is that somewhere
5 in the record in your filings that shows that?

6 A I'm not sure that there's anything other than maybe
7 a general statement to it. And if you like, we can
8 provide more information into the record as a
9 late-filed exhibit.

10 COMMISSIONER KALK: I think that would be
11 helpful, Your Honor. It's something that shows that
12 the future projections, this will help future need,
13 and how that would tie back to liability of
14 ratepayers, something like that, because that's
15 basically what you testified to today.

16 MR. LAHR: Yep. That's correct.

17 JUDGE WAHL: So, for the record,
18 Ms. Agrimonti, I assume Northern States Power is
19 willing to provide that information?

20 MS. AGRIMONTI: Absolutely.

21 JUDGE WAHL: For the record, that will be
22 Exhibit 30, a late-filed exhibit. And a description
23 for the exhibit, help me, please.

24 MS. AGRIMONTI: Discussion of proximity
25 of Fargo project to future load serving needs in the

1 Fargo area.

2 JUDGE WAHL: A discussion of proximity of
3 Fargo project to future load serving needs in Fargo
4 area. Is that -- will that properly describe the
5 information which you've proposed to provide?

6 MS. AGRIMONTI: Yes.

7 JUDGE WAHL: Mr. Armstrong?

8 MR. ARMSTRONG: No objection.

9 JUDGE WAHL: Exhibit 30 is received as a
10 late-filed exhibit.

11 Any further questions -- Commissioner
12 Clark.

13 FURTHER EXAMINATION

14 BY CHAIR CLARK:

15 Q Mr. Lahr, in your testimony you described,
16 basically, where the diversion is going to go. Is
17 there a -- is it in an exhibit in the application?

18 A Probably the best location is the tile maps, which
19 are Exhibit 3.

20 CHAIR CLARK: Okay. Thank you.

21 MR. LAHR: You're welcome.

22 JUDGE WAHL: Further questions from the
23 Commission?

24 Follow-up, Ms. Agrimonti?

25 MS. AGRIMONTI: No, Your Honor.

1 JUDGE WAHL: Mr. Armstrong?

2 MR. ARMSTRONG: Yes, Your Honor.

3 FURTHER EXAMINATION

4 BY MR. ARMSTRONG:

5 Q Mr. Lahr, just looking at the map, I do note --
6 well, on the application, page 715 -- 7-15 says a
7 portion of the area designated for a future
8 annexation within the city of Horace as crossed by
9 the proposed route. Could you give us, you know,
10 some summary of any issues with the city of Horace,
11 or if that's an issue, or just describe -- because
12 the line is proposed to be located fairly close to
13 the city of Horace. Could you just give us an
14 overview of what's happened with the city of Horace?

15 A The city of Horace, actually, has been an area that
16 several of our meetings have occurred down in that
17 area and that's where a lot of the diversion talk
18 has come from. Again, all of the cities, Horace
19 included, would like us as far as we can be from the
20 city.

21 In that area, the alignment through there
22 keeps us at their absolute outer boundary and we
23 only intersect with the city for approximately half
24 a mile where they have a little area that's annexed
25 down there that we go through. But, again, we don't

1 see that it would inhibit growth or hinder the
2 ongoing growth of the city.

3 Q And has it -- to your knowledge, has the City of
4 Horace objected to the location of the route?

5 A No, and we have the conditional use permit there
6 this month.

7 MR. ARMSTRONG: Thank you. Nothing
8 further.

9 JUDGE WAHL: Anything further, Mr. Lein?

10 MR. LEIN: No, Your Honor.

11 JUDGE WAHL: Further questions from the
12 Commission? Follow-up?

13 Commissioner Cramer.

14 FURTHER EXAMINATION

15 BY COMMISSIONER CRAMER:

16 Q Sorry, I can't resist. Did you just say that it
17 only intersects for about half a mile the city of
18 Horace?

19 A Yes.

20 Q Is that what I -- I mean, do you know how small the
21 city of Horace is? It's kind of like the whole
22 length of the city.

23 A If you -- Commissioner, if you look at the key map
24 it might be easier to --

25 Q Oh, sure.

1 A -- to see where Horace versus the sort of -- the
2 extraterritorial outside edge is, it's highlighted
3 in yellow on that key map on the first page, and you
4 can see there's a square block right above the word
5 Pleasant Township.

6 Q Got it. Yep.

7 A And that's where we technically interact with it.

8 Q All right. I understand.

9 COMMISSIONER CRAMER: Thank you.

10 JUDGE WAHL: Further questions from the
11 Commission?

12 Follow-up, Ms. Agrimonti?

13 MS. AGRIMONTI: No, Your Honor.

14 JUDGE WAHL: Mr. Armstrong?

15 MR. ARMSTRONG: No, Your Honor.

16 JUDGE WAHL: Mr. Lein?

17 MR. LEIN: No, Your Honor.

18 JUDGE WAHL: Thank you very much,

19 Mr. Lahr.

20 MR. LAHR: Thank you.

21 (Witness excused.)

22 JUDGE WAHL: Ms. Agrimonti, other than
23 the exhibit, which we'll discuss at a recess,
24 anything further?

25 MS. AGRIMONTI: Yes, Your Honor. I heard

1 several questions from the Commissioners about the
2 need with respect to future City of Fargo load
3 serving, and we do have Mr. Kline available here to
4 answer those questions and to provide some
5 additional information, if that is desired.

6 JUDGE WAHL: Do the Commissioners have
7 any questions in that regard?

8 COMMISSIONER CLARK: I might ask a
9 question or two.

10 JUDGE WAHL: Indeed.

11 MS. AGRIMONTI: All right. The
12 applicant, then, would call Mr. Daniel Kline.

13 JUDGE WAHL: Mr. Kline, your testimony is
14 required to be under oath and I'm required by law to
15 advise you regarding perjury before administering
16 the oath.

17 Perjury is a false statement of material
18 fact which you do not believe to be true. In North
19 Dakota perjury is a Class C felony, punishable by a
20 fine up to \$5,000, imprisonment for a period of up
21 to five years, or both.

22 Will you raise your right hand, please?

23 Being advised regarding perjury,
24 Mr. Kline, do you swear that the testimony which
25 you're about to give in this matter shall be the

1 truth, the whole truth, and nothing but the truth?

2 MR. KLINE: I do.

3 JUDGE WAHL: Commissioner Clark.

4 CHAIR CLARK: Thank you.

5 DANIEL KLINE

6 EXAMINATION

7 BY CHAIR CLARK:

8 Q And thanks for making yourself available. My
9 question was with regard to the nature of the
10 benefits that are gained by having the line as close
11 into the diversion project as possible. And the
12 last witness talked a little bit about this, that
13 there are some advantages to threading that sort of
14 needle between Oxbow and the proposed diversion and
15 getting the line closer, and you actually would have
16 liked the line closer to Fargo on the south side but
17 there was a lot of local government opposition to
18 having it inside the border.

19 And yet on the west side of Fargo the
20 line is quite a bit west of Fargo and it goes all
21 the way out to get it to the west of Mapleton. Why
22 or what, from an engineering standpoint, would you
23 not want that line closer into Fargo, understanding
24 there are probably trade-offs that you made? If you
25 could just walk through the -- the thinking behind

1 pushing it all the way that far west. And it would
2 seem to me, if the theory is we got to get it as
3 close to town as possible, there would be benefits
4 from having it closer to town on the west side, not
5 just the south. But if you could talk a little bit
6 about that.

7 A Yes, sir. The -- the specific alignment issues on
8 the west side I'm not the most familiar with, as far
9 as I do know that the goal was to get the site of
10 Bison substation to be in -- within the area where
11 the 345 kV line, Jamestown to Maple River, and the
12 230 kV line that goes out to the wind farm in
13 Pillsbury, where they run concurrent with one
14 another. So that kind of set a -- at least a
15 westerly boundary for the site of Bison substation.

16 As far as where within that east-west
17 corridor it was located, I'm -- I'm -- I would
18 assume that constraints further south are what
19 caused that to be moved to the west.

20 On the south side of town there are a
21 couple of issues. One is, Mr. Lahr is absolutely
22 correct, that the further away you get, the more you
23 dilute the benefit you provide to a large load
24 center from a transmission facility. So there is a
25 desire there to keep -- to keep the line as close as

1 possible. The other thing is there are a couple of
2 potential siting opportunities for an
3 interconnection at existing substations. One of
4 which is -- is relatively close to the alignment
5 that has been chosen.

6 To move the line further south would
7 require either another new substation within just a
8 handful of, you know, a very short distance from an
9 existing substation, or you'd have to run, in
10 effect, two corridors. One to get from the line up
11 to the existing substation and then one to get from
12 that substation back to the existing line so that
13 you establish a loop.

14 Q Okay. And maybe my question would have been better
15 directed to Mr. Lahr, and we may have an opportunity
16 to get him back up on the witness stand if need be.

17 But, again, with the -- your statement
18 about the benefits can be diluted the further away
19 you get from the load center, I would then be
20 curious, would there be enhanced benefits from an
21 electric standpoint, from an engineering standpoint,
22 if actually the line was run closer to Fargo on the
23 west side? You know, so it sort of came up between
24 Fargo and Mapleton and then at some point maybe
25 along 94 it went up. I'm wondering about the

1 decision of pushing that line further west and are
2 there diluted benefits, then, to reliability, by
3 having the line more westwardly?

4 A In the analysis that we've done, the location of
5 Bison substation anywhere along that couple -- that
6 handful of miles of corridor was acceptable.

7 Q Um-hum. And even if Bison sub was in the same spot,
8 could the line be brought up closer into town and
9 then reached -- and I'm just wondering why the more
10 westerly orientation of the line, given the fact
11 that you've stated that -- that if you bring the
12 line closer in it has added reliability?

13 A If you -- and I'm looking at the -- just happen to
14 be looking at the proposed route map here, I'm not
15 sure if it's marked or -- it's number 2? Okay.
16 It's just the general tile map.

17 Q Sure.

18 A And where I see, like, what I understand, I think,
19 is if you take where it says Map 25 and instead of
20 turning west there, just keeping north to the
21 interstate and then go west, ultimately that would
22 be the same number of transmission miles from the
23 Alexandria substation all the way up to the Bison
24 substation.

25 Q Right.

1 A So there's no real -- there's no real difference
2 there. Because your aggregate line miles are going
3 to be the same.

4 Q Right. Your aggregate line miles will be the same,
5 but it would be closer in to the load center. Would
6 that provide more reliability? You don't have the
7 voltage issues that you had talked about, for
8 example, in the south side, where if it was further
9 away that --

10 A On the south side the reason for being close is the
11 opportunities for interconnection with future
12 facilities that exist on the south side.

13 Q Okay.

14 A On the west side there aren't those same number and
15 proximity of facilities that you experience.

16 CHAIR CLARK: Okay. Thank you, that's
17 helpful.

18 JUDGE WAHL: Further questions?

19 Commissioner Cramer.

20 EXAMINATION

21 BY COMMISSIONER CRAMER:

22 Q Well, do you know off the top of your head what
23 those are? Obviously there's some north-south lines
24 that are being -- do you know whose lines those are
25 right off the top of your head?

1 A One is a facility that is -- where the first few
2 miles of the line up in the Fargo area are owned by
3 NSP, and then the remainder of the line down, I
4 believe, to Wahpeton is owned by Minnkota Power
5 Cooperative. That's a 230 kV line.

6 Q Okay. So obviously the one, the Minnkota one you
7 could cross at any point between Fargo and Wahpeton
8 and it wouldn't change?

9 A Yes. However, there is an existing substation on
10 the -- on the south side of Fargo with what we
11 believe is room for expansion that would facilitate
12 an interconnection with the 345 kV line.

13 Q Okay. And then the NSP line, how far south does
14 that go?

15 A It's the same line, NSP owns the first few -- first
16 handful of miles and then Minnkota takes over.

17 Q I understand.

18 COMMISSIONER CRAMER: All right. Thank
19 you. Nothing further.

20 JUDGE WAHL: Further questions from the
21 Commission?

22 COMMISSIONER KALK: Just one question,
23 thank you, since we're taking time to visit.

24 JUDGE WAHL: Commissioner Kalk.

25 EXAMINATION

1 BY COMMISSIONER KALK:

2 Q When you get to where you're making a final decision
3 about what future load to serve, in thinking of
4 Otter Tail, they're also a company we regulate and
5 they also have load to the south, I mean, how were
6 they brought into this decision about not going to
7 that southern region which may help them in the
8 future in covering the northern region?

9 A The Fargo project participants completed a -- a sort
10 of long-range survey and a study of the Fargo area
11 to develop sort of a coordinated plan that would
12 have included -- of which Otter Tail was certainly a
13 participant. And that's where the participants
14 developed the long-range plan that identified the
15 potential need for this future interconnection on
16 the south side of Fargo. So Otter Tail was involved
17 and assisted with the study effort.

18 Q How do you define your scope, I guess, of a study,
19 that's a whole another kettle of fish, I suppose,
20 but I suppose Otter Tail looks at it from this is
21 helping out their system in Minnesota more so?
22 'Cause it seemed to me, the Otter Tail in North
23 Dakota, there's more benefit that maybe they could
24 have from this.

25 A The -- well, what -- it is another kettle of fish.

1 What we determined for the appropriate
2 scope was -- well, we knew that ultimately we needed
3 the 345 kV Fargo project to touch the existing
4 345 kV in the Fargo area. And part of the scope was
5 to determine where was most appropriate for that,
6 given future needs, constraints, and things like
7 that.

8 And then the next step was kind of, given
9 that NSP, Minnkota and Otter Tail all serve load in
10 this area, what's the right -- what do we need in
11 the future or what might we need in the future that
12 we could help kind of ease things along through the
13 completion of this project and make it a little
14 easier to achieve that some years down the road
15 without necessarily hamstringing us into one
16 particular development in the future.

17 COMMISSIONER KALK: Okay. Thank you.

18 JUDGE WAHL: Further questions from the
19 Commission?

20 Follow-up, Ms. Agrimonti?

21 MS. AGRIMONTI: Your Honor, if I may
22 establish some foundation for Mr. Kline's testimony
23 at this time?

24 JUDGE WAHL: Sure.

25 MS. AGRIMONTI: Okay.

1 EXAMINATION

2 BY MS. AGRIMONTI:

3 Q Mr. Kline, what are your current responsibilities
4 with the applicant?

5 A My current responsibilities are that I coordinate
6 all of NSP's activities in its RTO regions and in
7 the non-RTO west. I am responsible for transmission
8 tariff compliance. I participate on behalf of the
9 company in dockets before the Federal Energy
10 Regulatory Commission. And I'm involved with
11 certain long-range transmission projects.

12 Q In what position did you start with the company?

13 A I started as a transmission planning engineer.

14 Q And your education is also in electrical
15 engineering?

16 A Yes.

17 Q And do you have a master's in that?

18 A I have a master's in engineering from the University
19 of Idaho.

20 Q Okay. And what was your role and responsibility
21 with respect to the Fargo project on the engineering
22 side?

23 A I was the lead planning engineer for the Fargo
24 project and was responsible for identifying and
25 developing the need for the facility and shepherding

1 the need story through approval processes internally
2 at the Midwest Independent System Operator and also
3 before state commissions.

4 Q And what engineering analysis did you participate in
5 for this project?

6 A There was an initial study that was -- that was
7 completed around the time that we were developing
8 the regulatory -- the initial regulatory permits in
9 Minnesota. There was the follow-up -- the name
10 escapes me now -- the study that I was describing
11 here that identified the -- kind of the long-range
12 potential vision plan for the Fargo area.

13 MS. AGRIMONTI: Okay. Thank you,
14 Mr. Kline. That's all I have, Your Honor.

15 JUDGE WAHL: Mr. Armstrong?

16 MR. ARMSTRONG: No questions.

17 JUDGE WAHL: Mr. Lein?

18 MR. LEIN: No questions.

19 JUDGE WAHL: Any further questions from
20 the Commission?

21 If not, thank you very much, Mr. Lein --
22 I'm sorry, Mr. Kline. Too many lists.

23 (Witness excused.)

24 JUDGE WAHL: Now, Ms. Agrimonti, I
25 assume -- well, let me ask. Anything further?

1 MS. AGRIMONTI: No.

2 JUDGE WAHL: Other than the exhibit, of
3 course.

4 MS. AGRIMONTI: Yes.

5 JUDGE WAHL: Mr. Armstrong, I assume you
6 have nothing -- you have no direct evidence to
7 offer?

8 MR. ARMSTRONG: Correct, Judge.

9 JUDGE WAHL: Yes, of course.

10 Let me see. May I see a show of hands,
11 please, of those people who would plan to testify or
12 address the Commission concerning this matter, other
13 than Mr. Dwyer and Mr. Kraft?

14 Okay. We better go to lunch.

15 Let's try -- can we do -- I'm not
16 familiar with the location here. Can we do lunch
17 in -- does anybody think we can't do lunch in 45
18 minutes? Good.

19 Let's recess until 12:45.

20 Mr. Kraft, I would like to talk with you
21 briefly, please. And, also, anyone else who would
22 address the Commission --

23 (Lunch break.)

24 JUDGE WAHL: Ms. Agrimonti, let's begin
25 with you. I have from Mr. Simpser Exhibit 31, which

1 I am advised has been stipulated to by counsel. I'm
2 correct in that understanding, Ms. Agrimonti?

3 MS. AGRIMONTI: Yes, Your Honor.

4 JUDGE WAHL: And Mr. Armstrong?

5 MR. ARMSTRONG: Yes, Your Honor.

6 JUDGE WAHL: Commissioner Clark, this is
7 the exhibit which you requested, which I think
8 serves the purpose of your question. But you should
9 take a look at it, please. And I note for the
10 record -- well, and for counsel, I have described
11 this exhibit as map showing location of Wessels'
12 residence to transmission line and waiver.

13 MS. AGRIMONTI: That's correct.

14 JUDGE WAHL: Commissioner Clark, any
15 questions?

16 CHAIR CLARK: Sure. And if I might, this
17 is the residence that is believed to be just outside
18 of 500 feet, but depending on where the exact line
19 exactly is, maybe within 500 feet, so the company
20 just sort of prospectively went ahead and got the --
21 obtained the waiver in case it does end up being at
22 some point within 500 feet?

23 MS. AGRIMONTI: Yes, Chair. You'll see
24 on the diagram there that the 500 feet from where it
25 was measured does overlap the right-of-way, but does

1 not right now fall underneath either the arm or the
2 pole within that 500 feet, and so the waiver was
3 obtained from the landowner.

4 CHAIR CLARK: Okay. Very good. Thank
5 you.

6 JUDGE WAHL: Any further questions from
7 the Commission?

8 If not, Mr. Armstrong, I assume nothing
9 with regard to the exhibit?

10 MR. ARMSTRONG: Correct, Judge.

11 JUDGE WAHL: Mr. Lein?

12 MR. LEIN: (No verbal response).

13 JUDGE WAHL: No, your answer is no,
14 nothing.

15 MR. LEIN: No, Your Honor.

16 JUDGE WAHL: All right. Then I think we
17 can proceed with what I would refer to as public
18 testimony. Let me ask first for Mr. Dwyer.

19 Please be seated, Mr. Dwyer. And please
20 identify yourself to the Commission and note your
21 appearance for the record.

22 MR. JACK DWYER: Good afternoon, Your
23 Honor and Commissioners. My name is Jack Dwyer, I'm
24 a lawyer here on behalf of Warren Township.

25 Today I have with me two supervisors,

1 Wally Fox and Jeff Auchs (phonetic), if you'd please
2 stand. And the chairman of the board was also here
3 and he's going to be back here shortly, but his name
4 is Randy Hajek.

5 The reason I'm here today, in December
6 Xcel submitted -- or NSP submitted a letter
7 requesting a conditional use permit to the township,
8 Warren Township. At that time the township
9 discussed the impacts that will be foreseen and
10 maybe strategies to mitigate those impacts.

11 About a week ago the township had a
12 special meeting to codify those impacts and we sent
13 a letter to NSP requesting that they -- well, we
14 sent a letter with several requests, and we intended
15 that those requests be included in a stipulation and
16 presented to the Commission so that it could be
17 included in the order and enforceable by the Public
18 Service Commission.

19 In response, NSP provided its
20 certification relating to order provisions and asked
21 that we examine that in relation to our request to
22 see if that certification would alleviate our
23 concerns.

24 After reviewing the certification,
25 because of the natural environment and the landscape

1 in Warren Township, there were still some concerns
2 that existed that were not specifically addressed in
3 that certification.

4 As you know, it's very flat in this area,
5 there's some drainage concerns, and roadways serve
6 not only as roadways but also as levies and part of
7 a drainage system that directs water flow. Also,
8 there were some safety concerns. And, also, the
9 construction process, we understand, will take --
10 will take place in two different phases, and
11 potentially over a year, and so there was some --
12 there was some concern that during construction
13 impacts weren't specifically addressed in the
14 certification.

15 Warren eliminated a few requests and then
16 we sent a revised letter to NSP. And after working
17 on the language together, NSP has agreed to
18 accommodate those requests.

19 At this time, if I may approach, I've got
20 a letter here that has been marked prior to the
21 hearing that I've provided to Mr. Armstrong and
22 Mr. Simpser, so I'd move for its admission.

23 JUDGE WAHL: Mr. -- or Ms. Agrimonti? Or
24 Mr. Simpser?

25 MR. SIMPSEY: Your Honor, we have no

1 objection to the letter, we've worked closely with
2 Warren Township to come up with conditions that we
3 think are appropriate and we'll defer to the
4 Commission as to the wisdom of including that in the
5 order.

6 JUDGE WAHL: Mr. Armstrong?

7 MR. ARMSTRONG: No objection.

8 JUDGE WAHL: Warren Township, I believe
9 I've marked that Warren Township -- or
10 Exhibit Warren Township 1.

11 MR. SIMPSON: That's correct.

12 JUDGE WAHL: Is received.

13 MR. JACK DWYER: Now, these requests that
14 are included in this order are typically conditions
15 that we would place in a conditional use permit and
16 I believe that is the township's intention.
17 However, the reason that we're here today is to
18 request that these -- that these -- the requests of
19 NSP be included in the order and enforceable by the
20 Public Service Commission.

21 The reason that we're asking that is just
22 for enforcement concerns. Warren Township is a
23 township and has limited funds, and to enforce a
24 conditional use permit through traditional means
25 could be difficult against a big utility company.

1 We trust that Xcel has -- has -- or it
2 will do everything that it's represented that it
3 will do, it has been very accommodating to work
4 with. However, having something enforceable by the
5 Public Service Commission would alleviate our
6 concerns in that regard.

7 Are there any questions?

8 JUDGE WAHL: Well, let's do it this way.
9 If the Commission has questions -- well, there's
10 nothing that says you can't be a witness, Mr. Dwyer,
11 of course.

12 MR. JACK DWYER: Well --

13 JUDGE WAHL: But if you're going to
14 respond to questions, then somebody's going to have
15 to testify. Unless it's a procedural question that
16 is not at issue for the preparation of the order.
17 But if the Commission has questions concerning the
18 specific provisions, then we're going to have to
19 have a township supervisor serve as a witness.

20 Unless, of course, you wish to be sworn
21 as a witness, although I'm not -- I'd have to think
22 about that a little bit, too, as you understand,
23 under the rules. But, anyway.

24 MR. ARMSTRONG: Well --

25 JUDGE WAHL: So let me ask the

1 Commission. Do the Commissioners have -- would the
2 Commissioners like to -- do the Commissioners have
3 questions concerning this?

4 CHAIR CLARK: I do have a question. If
5 he can answer it as an attorney now, that would be
6 fine, if it has to be a witness -- however we need
7 to do it, we can do it, but it's more of a technical
8 question.

9 JUDGE WAHL: Well, I have -- I have a
10 little problem. It's been a while since I've looked
11 at the Rules of Professional Responsibility, but
12 there's a problem with a lawyer testifying on behalf
13 of his client.

14 Let's have the -- Commissioner Clark,
15 let's not make too big a deal out of this. What is
16 your question? Let's see how we can deal with it.

17 CHAIR CLARK: My question is if the
18 township has had an opportunity to look at the
19 affidavit that the Commission typically requests
20 that a utility company sign with regard to the --
21 with regard to the things that the company will
22 promise to do in the course of constructing or
23 operating the facility. It seems to me that some of
24 these may be covered in that, some may not, and I
25 just wonder if they've had an opportunity to look at

1 what's usually attested to and if it matches up with
2 some, most, or all of the concerns expressed.

3 UNIDENTIFIED: (Inaudible).

4 MR. JACK DWYER: That is the certificate
5 that I'm referring to. We've looked at that and
6 crossed out a few requests and this is our second
7 revised -- that we felt were separate and distinct
8 from the --

9 CHAIR CLARK: That weren't quite covered
10 in there to the degree --

11 MR. JACK DWYER: Sure.

12 CHAIR CLARK: Okay. That's all I have.

13 JUDGE WAHL: Further questions from the
14 Commission? Go ahead, Commissioner Kalk, let's see
15 how we can do this.

16 COMMISSIONER KALK: Well, I guess -- the
17 question I guess I would have is the -- not knowing
18 what questions would come out of our work session as
19 we get down the road, that may guide some of the
20 questions that I would ask this individual or the
21 people he's representing. And so maybe if we could
22 just take just a minute to talk to Mitch about some
23 of this, that might be -- I think that's what I
24 would like to do, is just talk to our attorney
25 briefly about some of these as it relates to what

1 might come down the road. 'Cause there are some
2 things in here that I think might be good ideas, but
3 it opens up a lot of -- a lot.

4 JUDGE WAHL: Let's -- Commissioner
5 Cramer?

6 COMMISSIONER CRAMER: Well, I guess my
7 question, too, is more for our counsel with regard
8 to the process. I mean, my sense is if the
9 company's agreed to it, and -- I mean, I'd feel
10 hard-pressed to get in the way of a good local
11 government relationship with a company that wants to
12 build across their township. So I guess I would
13 just sort of look to counsel and say is there any
14 reason why we shouldn't accept this that you can
15 think of?

16 MR. ARMSTRONG: Well, I think -- and I've
17 also been involved in some of the discussions with
18 Mr. Dwyer and Mr. Simpser and we've kind of
19 explained the process of enforcement of our order
20 versus enforcement of a conditional use permit by
21 the local body. And basically what it's come down
22 to is my understanding is the company agrees to do
23 all of these things in agreement with the township,
24 and they will submit this, you know, as things that
25 they want in the order, and during the work session

1 we can discuss how far and specific we want to go
2 with it, knowing that the company agrees to do this
3 on behalf of Warren Township.

4 JUDGE WAHL: And, of course, the question
5 then becomes the enforceability of it, but even
6 prior to that my question would be, I mean, we're
7 not going to come out and inspect it, obviously, I
8 don't think, so we'd rely somewhat on the township
9 for its eyes and ears.

10 MR. ARMSTRONG: Yep. And I have had
11 discussions with Mr. Dwyer, with Mr. Simpser there
12 also, about, you know, if this is approved and
13 there's construction going on and there's a problem,
14 somebody needs to let the Commission know and we
15 obviously take enforcement of any of our orders
16 seriously and to the extent we can we would follow
17 up on any of those comments.

18 JUDGE WAHL: Commissioner Clark.

19 CHAIR CLARK: This is probably a question
20 for Mitch as well then. I mean, some seem like they
21 would be easily enough addressed in the
22 Commission -- they're similar to things that the
23 Commission deals with all the time. The one that
24 does seem a little bit different as I just quickly
25 scan the letter might be the \$500,000 performance

1 bond, which as I understand is being submitted to
2 the township. I'm not sure how the Commission would
3 enforce that if the legal bond is between the
4 township and the company.

5 MR. ARMSTRONG: And we've had discussions
6 of those also, and what our orders typically say, if
7 we approve it, is they must meet all local
8 government laws in situations. Now, to the extent
9 that we can enforce the bonding, not necessarily
10 that as between the township and the company, we can
11 enforce our order and what is in the order and go
12 that far.

13 JUDGE WAHL: Further questions from the
14 Commission?

15 Mr. Simpser, you should get your oar in
16 here, if you wish.

17 MR. SIMPSEY: We have nothing else to
18 add. I think Mr. Armstrong covered our concerns
19 adequately. Like I said, we're happy to agree to
20 all those conditions, they are things we normally
21 would do anyway, and so it's up to the Commission to
22 determine the wisdom of including that in the order.

23 JUDGE WAHL: Anything further,
24 Mr. Armstrong?

25 MR. ARMSTRONG: No, Your Honor.

1 JUDGE WAHL: Very good.

2 Mr. Dwyer, unless you have anything
3 further, I think you've got the job done.

4 MR. JACK DWYER: Thank you.

5 JUDGE WAHL: Next, please.

6 Mr. Kraft. Please have a seat. Please
7 state your name for the record, Mr. Kraft.

8 MR. DEAN KRAFT: Dean Kraft.

9 JUDGE WAHL: What is your residence
10 address?

11 MR. DEAN KRAFT: 16305 41st Street
12 Southeast, Mapleton, North Dakota.

13 JUDGE WAHL: Is that also your post
14 office address?

15 MR. DEAN KRAFT: Yes.

16 JUDGE WAHL: And do you represent any
17 organization or business entity?

18 MR. DEAN KRAFT: Just our own --

19 JUDGE WAHL: Yourself?

20 MR. DEAN KRAFT: Yep.

21 JUDGE WAHL: And your family.

22 Mr. Kraft, I understand that you've got
23 some documents which you would like the Commission
24 to have --

25 MR. DEAN KRAFT: Yes, I do.

1 JUDGE WAHL: -- and be part of the
2 record?

3 MR. DEAN KRAFT: Yes.

4 JUDGE WAHL: Be seated.

5 Mr. Kraft, I'm showing you what has been
6 marked as Exhibit Kraft 1. And the first page of
7 the exhibit -- a first page of the exhibit is
8 apparently a screen up of an e-mail; is that
9 correct?

10 MR. DEAN KRAFT: That's correct.

11 JUDGE WAHL: And what is this e-mail?

12 MR. DEAN KRAFT: E-mail to the Public
13 Service Commission concerning our -- what's going on
14 with the CapX 2020.

15 JUDGE WAHL: Very good. And the second
16 page of the exhibit appears to me to be a -- a plat.
17 Where was this plat obtained?

18 MR. DEAN KRAFT: From a Cass County plat
19 book.

20 JUDGE WAHL: A standard plat book that's
21 prepared for and sold and distributed in Cass
22 County?

23 MR. DEAN KRAFT: Correct.

24 JUDGE WAHL: And the third page appears
25 to be an aerial photograph, perhaps. Where did you

1 obtain that document?

2 MR. DEAN KRAFT: I got this from the
3 documentation I got from the CapX 2020 people.

4 JUDGE WAHL: Northern States Power. All
5 right.

6 Objection, Ms. Agrimonti?

7 MS. AGRIMONTI: No objection.

8 JUDGE WAHL: Mr. Armstrong?

9 MR. ARMSTRONG: No objection.

10 JUDGE WAHL: Kraft -- Exhibit Kraft 1 is
11 received.

12 Mr. Kraft, you may proceed.

13 MR. DEAN KRAFT: So go ahead and start?

14 JUDGE WAHL: Yes. Oh, wait a minute.

15 I'm sorry. I got to have an oath.

16 Mr. Kraft, as you saw with previous
17 witnesses, your testimony is required to be under
18 oath and I'm required by law to advise you regarding
19 perjury before administering the oath.

20 Perjury is a false statement of material
21 fact which you do not believe to be true. In North
22 Dakota perjury is a Class C felony, punishable by a
23 fine up to \$5,000, imprisonment for a period of up
24 to five years, or both.

25 Will you raise your right hand, please?

1 Being advised regarding perjury,
2 Mr. Kraft, do you swear that the testimony which
3 you're about to give in this matter shall be the
4 truth, the whole truth, and nothing but the truth?

5 MR. DEAN KRAFT: I do.

6 JUDGE WAHL: Now you may proceed.

7 MR. DEAN KRAFT: Thank you, Your Honor.

8 As I said, my name is Dean Kraft -- nervous, so --

9 JUDGE WAHL: Take your time. You got all
10 the time that you need.

11 MR. DEAN KRAFT: So I'm here to express
12 my concerns over the CapX 2020 power lines that
13 they're talking about today.

14 And, of course, as you can see by those
15 papers, I would like to move that west in their
16 corridor.

17 I guess I'll give you a little
18 background. I have a private pilot's license, a
19 commercial pilot's license, instrument rated, since
20 I was a teenager, and my dad has flown for more than
21 40 years, my mom and sisters are pilots. We ran
22 a -- run an aerial application business for 30 plus
23 years out of these locations, 2ND0, which on the air
24 nav that's the caller or identifier for the runways
25 there. Our family's been members of the Flying

1 Farmers for 30 plus years and lots of friends and
2 family that fly also.

3 I guess that brings me to the safety
4 concerns on the proposal for the power lines.
5 Aerial application, I've flown aerial application
6 equipment and still have licenses to do all that
7 stuff. With the strip, where it's located, and also
8 the lines that are already there to the north, I
9 feel this would produce more hazard having those
10 within a half a mile of the runway area there. And
11 you can, on that second page you can kind of see
12 those green lines are the -- are two runways that we
13 have. The yellow-shaded areas are ground that we
14 own. The brown or dotted line would be kind of a
15 rough estimate to the proposed area that that would
16 go. The red line would indicate how I'd like to
17 push it west. I mean, further west. But I
18 understand how -- I've learned a lot sitting here
19 this morning, and it's very -- I've learned a lot in
20 a little bit of time here.

21 It also sounds like, you guys brought up
22 earlier, you know, something to the east, you know,
23 further east. I believe you were making some
24 comments about the gentleman behind me, the load
25 carrying, you know, being further away from town and

1 stuff. So, of course, if it got east further, that
2 would be a -- take away from the safety concerns of
3 our airports there.

4 Power poles are not ag pilots' friends.
5 I've flown around 'em -- excuse me -- a lot and
6 they're difficult to work around. And, oh, not
7 without -- you can do it. I've been over, I've been
8 under, I've been around them a lot, I've seen them
9 from all different angles, I've seen 'em in the
10 windshield. They're not fun. My dad's flown
11 through 'em. So they -- they are dangerous.

12 So if we have to take off loaded to the
13 north, we already contend with one power pole, set
14 of power poles that run east and west, we fly
15 underneath those because we're not able to get
16 enough altitude over the top of 'em. If we wanted
17 to depart to the west we'd have to fly underneath
18 those ones, otherwise you have to circle around like
19 climbing out of a canyon to get out of there. Time,
20 as you guys, everybody knows, time is money, that
21 you're not making anything.

22 So, I mean, I feel -- and it seems like
23 power poles breed more power poles. And my aerial
24 application, times I've been up in the north, you
25 know, Minnesota and North Dakota further north,

1 further south, you see where these transmission
2 substations, they're calling 'em switching stations,
3 things like that come into play. Well, once they
4 get there they do not leave and they breed more
5 power lines.

6 I feel in my time, and Mr. Lahr talked
7 about only having power lines -- wires on one side,
8 and I'm not sure if that's still the case, but
9 eventually there will be lines hanging off the other
10 side of those poles. And probably not in my
11 lifetime, but who knows, maybe in my son or
12 daughter's lifetime there will be another stretch
13 coming down there to get -- to get further need to
14 the community or what have you.

15 Also, on the safety concerns. Probably
16 the biggest impact would be to my dad and myself
17 because we fly around. None of us are getting any
18 younger and get forgetful. Well, for my 40 years
19 those power lines weren't there, I'm doing something
20 where it's under clouds or trying to get back to the
21 airport and I've, you know, if I got numerous other
22 things going on on the plane, that's probably the
23 first thing I'll forget about is the set of lines
24 there, and I don't want to meet 'em, I guess.

25 And then we also have friends that fly

1 in. And for many years, like I said, they have been
2 Flying Farmers for 30 years, numerous people from
3 all over the lower 48 and other areas that have
4 flown into our place. Granted, it's not a public
5 runway, and I understand that, it's a private one,
6 but people from all over have flown in here. And,
7 you know, they got to, you know, ten years ago they
8 flew in there, there was no power lines there. Now
9 there is.

10 I understand there's many cell towers and
11 stuff that pop up all over, and as a pilot,
12 especially one that works close to the ground, you
13 have issues and that's something you got to be aware
14 of and it's something that's just another safety
15 factor that we feel that in a different location
16 would help.

17 We've even had UND airplanes that
18 practice around us and I can tell they'll -- we're
19 in our shop, we'll go out there and you'll hear 'em
20 cut the throttle, and I know what the instructor is
21 saying, he's saying, okay, where are you going to
22 land if he sees an unfamiliar, you know, area.
23 Well, that's up to the pilot to turn and say, well,
24 I see a road, I see, oh, there's a grass strip, I'll
25 land there. That could, I mean, power poles close

1 by lead into problems there.

2 The -- and I'll probably address this
3 later on. I apologize for jumping around a little
4 bit. But I talked to a person in Bismarck and the
5 public runway is 5,000 feet from the centerline of
6 the runway, is my understanding that they don't want
7 anything over 150 feet above the ground. I
8 understand this is a private strip, but public, it's
9 been used by numerous people, and I guess if it's
10 safe enough for public I feel it's safe enough for
11 us also.

12 Finding out about this back in January of
13 2010, sitting here looking on the Internet figuring
14 all this stuff out, it's a lot that I'm not used to.
15 But I believe as early as '07, and I believe the
16 CapX 2020 people said something about back into '02
17 also there was some stuff that was talked about.
18 I'm not a person that watches the Public Service
19 Commission, what's coming down the pike and all this
20 stuff.

21 I can't turn back the hands of time. I'm
22 learning, I've been on the township board so I learn
23 how government things, local level, things get done.
24 And that's how I initially got word of this, was
25 through the township, not through my personal, you

1 know, stuff, it was addressed to the township things
2 that I got knowledge of this. And then, of course,
3 later on I believe everybody got knowledge or
4 however that works out.

5 But if I know -- knew then what I know
6 now, I would have probably done -- been on the phone
7 or doing something to address the Commissioners more
8 to make sure they understood my concerns. And I
9 understand there's a lot of people in this room that
10 have numerous concerns about this. But that's
11 something I learned and sometimes lessons cost.

12 But when I first -- Darrin Lahr was at
13 Mapleton and I first visited with him, he gave his
14 talk up there and had the presentations over there,
15 I brought up the fact of the -- our runways, our
16 airports. And his -- his view on it was that, and I
17 remember this, he said it would be easier for us to
18 move 'em then to move the power line. So that --
19 that exchange gave me a feeling on kind of how this
20 was going to work.

21 And, you know, I didn't know what to say.
22 And I understood where he was coming from, he's got
23 a job, I respect that, he's got a job to work and
24 get his work done. But I got a job and I've learned
25 fast that nobody's going to look out for you, you

1 got to take care of yourself on that. And so, you
2 know, trying to get myself up to speed on this. But
3 going on to the Public Service Commission website
4 and things like that, and it's just overwhelming the
5 amount of stuff that's on there. I mean, I got a
6 300-page book, and I think you guys all have it
7 there. And I have spent time looking at that and
8 I've learned lots.

9 But so, I mean, I had some concerns when
10 I came in to this meeting this morning, and I'll try
11 and make -- I'll try and wrap up quickly here.
12 About the meeting was getting kind of a compound
13 thing for that certification of corridor
14 compatibility and the route permit. You know, was
15 there supposed to be an earlier June meeting, that
16 got cancelled, and then we were coming back to this
17 one now and they were combining things. And that,
18 you know, I'm reading this stuff on a computer and I
19 had little -- my concerns were that this was just
20 going to get put on a fast track to get pushed
21 through and not listen to people.

22 This morning when you Commissioners spoke
23 I felt a lot better, 'cause I think you're here for
24 just what you said you were, to listen to the public
25 to get ideas for what's happening and stuff like

1 that and I feel a lot better about that. So in
2 saying that, I guess I'm -- I'm happy with what I've
3 seen this morning.

4 I -- the line on the page there, when I
5 brought it up this page was a lot wider, when the
6 CapX 2020 people first brought it into view. I was
7 concerned, as I stated earlier, that maybe things
8 would just get pushed through and nobody would
9 listen. I feel that's not going to be the case, I
10 feel that people are listening. To where I made the
11 red line on there, you know, further west the better
12 to stay away from the runways, from our safety
13 concerns for businesses and people's safety coming
14 in and out of there.

15 The one thing that does bother me a
16 little bit is the feeling I got from CapX as, well,
17 and when these other people, I believe it's Ulteig,
18 or the people for getting the permits for the
19 ground, zoning, I believe is what it is, well, they
20 always say, well, where should you put it? And I
21 have a problem with that for the fact that I don't
22 want to be pitted against my neighbors. You know,
23 it's not me against them, that's not what I want.

24 You know, the gentleman further south of
25 me that has some land, you know, that's right

1 adjacent to our runway, I don't own that, my folks
2 own the land, the building site right there, but
3 they, you know, he would like to see it moved west,
4 that would help our runway, too. But then, you
5 know, we know the people that are west of there,
6 too, and so when these CapX people say, well, where
7 would you want to put it, I feel that's not fair to
8 us or the neighbors because I'm not -- I don't want
9 to be pitted against them. And I feel that the
10 Public Service Commission, you guys, from what I saw
11 this morning and stuff, I think you take that into
12 consideration and understand. I mean, I'm not
13 trying to push this on my neighbor, I'm doing it for
14 a safety concern, and power lines and airplanes
15 don't mix.

16 You know, we all worked hard for our land
17 and it's -- I don't want to be in -- I get along
18 with my neighbors, I don't want to change that.

19 I have a son and daughter that I hope --

20 JUDGE WAHL: Take your time, Mr. Kraft.

21 MR. DEAN KRAFT: No, it just -- I have
22 kids that I hope fly someday.

23 So that's it. Thank you for your time.

24 Any questions, I'd --

25 JUDGE WAHL: Ms. Agrimonti.

1 MS. AGRIMONTI: Thank you for coming
2 today, Mr. Kraft. I do not have any additional
3 questions.

4 JUDGE WAHL: Mr. Armstrong.

5 MR. ARMSTRONG: Just a couple, Mr. Kraft.

6 EXAMINATION

7 BY MR. ARMSTRONG:

8 Q Is there a -- I see you have two runways on your
9 map?

10 A That's correct.

11 Q Is there times when one is used versus the other
12 one, or how does that work?

13 A Yeah. The further east one is where our airplanes
14 are stored and things like that. The west one that
15 would be closer to the power line is my folks
16 purchased that farmstead later on and they used to
17 run a business together with the gentleman that
18 lived there and they had a spraying operation and
19 they would use them both. When the one is under
20 water sometimes you'd go to that one and fly off of
21 that, it's a better runway. And it's also -- when
22 there's family get-togethers and stuff, it seems
23 like we're always over there and that's where the
24 airplane sits and the kids get the rides and things
25 like that.

1 Q So if I'm hearing you right, is it fair to say or
2 not that the east one is kind of the primary one and
3 the west one is the secondary one when there's water
4 or is it vice versa?

5 A Well, they both get used a lot. I mean, the west
6 strip is the better strip. So they're both getting
7 used.

8 Q And I don't know much about planes. Do you know how
9 high, by chance, those power lines to the north of
10 your runways are?

11 A I should know that. Just a second. Let me -- I can
12 do a little figuring here. Well, they're -- they're
13 going to be on a 20 to one glide slope ratio off the
14 end of the runway, so it's -- they're over 50,
15 they're 75 feet tall. These other power lines are
16 going to be going over the top of them and that'll
17 put them well over 100 feet.

18 Q The application -- the reason I ask, the application
19 says these lines will vary anywhere from 130 feet to
20 175 feet. You know, as it relates to your airplane
21 operation, is 175 better or 130 feet better or is it
22 a wash a piece or --

23 A Well, I mean, the majority of the pilots don't like
24 flying under towers. You know, when they depart
25 they like to go over the top of 'em. And the

1 Bismarck FAA airport director guy that I talked to,
2 he said for a public runway, 5,000 feet from the
3 centerline of the runway, they don't want anything
4 over 150 feet above the ground. So that, I mean,
5 heighth was -- there's an already established power
6 line just north of the runway and they're going to
7 be over 150 feet to get over the top of those, if
8 not more, I'm pretty sure of that. And so they're
9 going to be quite tall right there.

10 Q Like your flying, are you using it to spray your
11 field?

12 A We do spray our fields by air quite often. In the
13 last few years not as much, but we do do that. And
14 that would also become detrimental to the farming of
15 that.

16 Q How low do you fly to spray?

17 A The boom would be 10 to 12 feet off the ground, so
18 the wheels of the plane, if you were standing there,
19 you wouldn't want to be in the way.

20 MR. ARMSTRONG: That's all the questions
21 I have. Thank you.

22 JUDGE WAHL: Mr. Lein?

23 MR. LEIN: I have no questions. Thank
24 you.

25 JUDGE WAHL: Questions from the

1 Commission?

2 Commissioner Clark.

3 EXAMINATION

4 BY CHAIR CLARK:

5 Q Thank you for being here today, Mr. Kraft.

6 A Thanks.

7 Q I assume you've had a number of discussions with
8 Xcel. When you've talked about other options for
9 moving the line, I'm sure that some of them must
10 have been in the context of negotiations you've had
11 with regard to easements. Have they discussed why
12 somewhere further west wouldn't be -- wouldn't be
13 available?

14 Or, I'm thinking, I mean, on your map
15 here that you provided to us in your exhibit, you
16 had suggested maybe just on the other side of the
17 road or 16th Avenue Southeast. I assume, even if it
18 was on your side of 16th Avenue, you'd see that as
19 better than where it is right now. What was their
20 response when you talked about that as opposed to
21 where it is now?

22 A Well, as I brought up earlier, I was a little
23 concerned about that, because when you say Xcel, I
24 guess I always think CapX 2020 is the group of
25 people that I was dealing with. When I talked to

1 Mr. Lahr the first time I got that bad vibe on, you
2 know, not a big concern about that. And then as the
3 wider corridor, and I believe it was on township
4 deals or whatever the different meetings we went to,
5 they shrunk it down. And I can remember standing at
6 a map like those three over there and saying, well,
7 I'd like to -- but you got to remember that there's
8 a group of your neighbors standing around and it's
9 just -- it's a terrible position to be in. 'Cause
10 you're standing looking at a map and saying, you
11 know, I think it should go here. That would be
12 great. I mean, one of them was -- I think it was
13 even on the west side of the Maple River over there.
14 And, well, I think, geez, it looks good over there,
15 you know, it's not my backyard thing. And I hate to
16 say it, but there's a lot of that that goes on. But
17 then your good buddy over there, he's like, oh, no,
18 that doesn't look good, you know.

19 So make a long story longer, there was
20 about two different times where I was standing at a
21 map saying, well, I think it should go here. And I
22 know they were listening, I mean, they were doing
23 their job well, because they -- they said -- and you
24 can just tell by the line that comes down on the
25 map, this is my feeling is where they wanted to get

1 it done, and they weren't really open to moving it
2 further west.

3 Q Right. I'm even wondering, maybe not the other side
4 of the Maple River, but, you know, just, say, on the
5 other side of your property, like the west edge of
6 26, something like that. Sometimes when we have
7 hearings like this a landowner will express a
8 concern like that and the company will say, well, we
9 had looked at that option but there's some other --
10 it puts it within 500 feet of somebody else's house,
11 which is an avoidance area. Or it, you know, puts
12 it into a watershed where we can't put structures.
13 And so there will be kind of reasons why they chose
14 not to do that and I'm wondering if they gave you
15 any sort of reason why?

16 A Yeah. And that is a case, because if you can see it
17 on the copies, they're poor copies, but there's a
18 place called Danny Gust's place on the west edge of
19 Section 35. Well, that 500 feet, if you're over on
20 that, running on that dirt road that you're talking
21 about that comes into there, or Brodshaug's land,
22 he's got all kinds of that, you know, move it
23 further out into their field, you know, that's where
24 the noxious weeds start, when you're farming around
25 them, that's where you waste all kinds of chemicals

1 and, I mean, it's a cost, a huge cost there. But
2 that would be, you know, you come down to the
3 Section 34, run back east along that road and then
4 start heading south.

5 Again, there was a -- and I should have
6 made better notes when I talked to one of those
7 meetings, because there was a path that was further
8 west when they first came up with this that, you
9 know, I can remember pointing and saying let's go
10 here, but then there was other guys there, too,
11 saying, well, no, I don't think so. But that's
12 true, there are other issues.

13 And then they also made the point of
14 going over those WAPA lines. They want to get it
15 done in the sag. That's why you see that jog over
16 on those maps over there, 'cause they're going on
17 the sag of the lines. They don't want to spend the
18 money to get 'em up in the air. And I don't want to
19 see 'em higher because, I mean, higher -- like we
20 were talking, higher is not good. But, you know, if
21 you move 'em west you can go into the sag of the
22 next guy's field but then he's cutting his field up
23 terribly. And there, again, you're neighbor against
24 neighbor, I don't want to be in that position. I
25 don't -- I'm not out to make life miserable for

1 other people. I hope that answers your question
2 somewhat.

3 Q I think so. So what I heard was that if you do --
4 if you go along -- I guess it's not 16th, it's 161.
5 If you go along 161, and I see the Gust home down
6 there, are there other homes along that section line
7 between 34, 35, 27, 26, 22, 23?

8 A Further south there is.

9 Q Further south?

10 A There is.

11 Q But in the area that's on your map are there, in
12 particular?

13 A Not between like 26 and 27 there is not. 34 and 35
14 and that south part there is, like you had
15 mentioned, further north. And there's also another
16 WAPA line running east and west further north that
17 they jog over on the section north there to get them
18 over, I mean, there is a -- there's not as many
19 houses up in that area, but they are jogging over
20 further a mile north than where I'm at there. I was
21 just concentrating on my little area.

22 Q You talk about how it affects your approach as you
23 land. I mean, it looks like the line and the runway
24 run parallel to each other. Is it a matter of, if
25 you're approaching from the west, how low you can go

1 and how steep you have to come in? Will you just
2 talk a little bit about that?

3 A Yeah. The line to the north has been there for many
4 years. It would have been right over the top of our
5 place, but now this is coming from my grandfather
6 and dad, 'cause we had it on the FAA, you know, it
7 was a private strip, they had to move it north.
8 Well, they did that 20 to one glide slope and they
9 said that's safe. You know, safe in who's book?
10 You know, that's the minimum, that's where they put
11 it, here you go, take it.

12 And I guess that's -- so, yeah, that's
13 fine, you can come in there and you can land just
14 fine. And taking off with a loaded airplane, I'm a
15 little heavier-set guy, I like to eat, and if you
16 want to go for a ride I got a little Aeronca Champ
17 and I could push the throttle half open and that's
18 what a loaded ag plane handles. Like, you're not
19 going to climb over 'em very easy if it's hot
20 departing that way. Coming in landing, you know,
21 it's not as big of an issue. But the lines that
22 parallel that, yeah, you're going to get in there
23 and land, but I say for safety reasons that, you
24 know, for a public use runway they wanted 5,150
25 feet, I figure that's -- that's fair for us, too.

1 But, yeah, pilots and planes are capable
2 of, when they're closer in like that, 'cause I think
3 the side is a seven to one ratio, if I'm not
4 mistaken. So on a half a mile that's about a
5 300-foot height. Don't quote me on those numbers.
6 But so, I mean, that's what they're saying is
7 acceptable and planes will do that. I mean, small
8 airplanes like this, that's fine. If they're
9 loaded, trying to work, probably not. And so the
10 5,000 feet, that's why I put that line over there,
11 I'd like to see it further west or further east.

12 Q And I can't recall from your testimony. Did you
13 indicate -- did you know how tall the towers in this
14 particular area were going to be?

15 A For the CapX?

16 Q Yeah.

17 A Well, I'm guessing. I read in there, and I know I
18 talked with Mr. Lahr, and 120 to I think 150 feet
19 was what they were saying. I'm guessing they're
20 going to be all 175 feet when they go over that
21 north --

22 Q The WAPA line?

23 A Yeah, that line there, they're going to be all of
24 that. And they can maybe -- they probably know
25 exactly what it's going to be at. But if they're

1 going to go over where there's not a sag, they're
2 going to get up there.

3 Q Okay. And then the only other -- I don't have
4 another question, just a comment.

5 You had talked about participation in the
6 process and wish you'd been in earlier and so on and
7 so forth. I would say don't worry about that. I
8 mean, honestly, if you had called us earlier in the
9 process, one of the Commissioners directly, we would
10 have had to tell you, sorry, we can't talk about it
11 right now, we have to wait till the hearing. So
12 really it didn't prejudice anything at all. But I
13 just appreciate you being here today.

14 A Well, I appreciate that. And listening this morning
15 I felt -- I was happy to hear what I heard. Thank
16 you.

17 JUDGE WAHL: Further questions?

18 Commissioner Cramer.

19 COMMISSIONER CRAMER: Thank you, Your
20 Honor.

21 BY COMMISSIONER CRAMER:

22 Q Thank you, Mr. Kraft, for your courage and your
23 testimony. I just want to get clear that for a
24 public use runway there is a standard of 5,150 feet,
25 that's an aeronautics regulation or something?

1 A Now, granted, I called a gentleman in the Bismarck
2 office and that was what he gave me. I didn't, you
3 know, get the reg book out and study that or
4 anything like that.

5 Q Sure. Was that somebody at the North Dakota
6 Aeronautics Commission?

7 A No, it was -- and if I can find it here. Just give
8 me one second. I must have not put it in here. But
9 it was at the FAA --

10 Q Oh.

11 A -- office in Bismarck. And I forgot -- I thought I
12 had it in here. Oh, here it is. I talked to a
13 gentleman in the FAA, Mark Holter, in the Bismarck
14 district office.

15 Q Okay. And so if that's for a public runway, you're
16 saying if it's good -- if safe is safe for public,
17 why wouldn't it be for private. How much -- I guess
18 a little bit along Commissioner Clark's line. One
19 of the things, when I look at your map and I see
20 that there's a fair bit -- you're still a fair bit
21 of distance to the west, it remains on your land
22 before it goes over to Mr. Brodshaug's land. I
23 mean, can you think of any particular -- we call
24 them avoidance areas, but any features that would
25 prevent, if we could even move it a few hundred

1 feet, find a compromise, and I'm not here to sort of
2 negotiate that, I'm just trying to get a sense of
3 what might be better if not perfect.

4 A Yep. I understand. On the south end of Section 26
5 there's a dirt road, and I was up and down with the
6 pickup looking at it, 'cause CapX said that they
7 want to be in the sags. Well, where they jogged
8 over, that's one area, the next one is going to be
9 over kind of where you're talking, but, boy, that
10 cuts -- I mean, not in my backyard thing, but that
11 is just going to be a -- I've flown over enough
12 power lines to see how they run in fields and stuff
13 and they really can mess up some nice fields. And
14 that takes away from the value of the property later
15 on and for whatever reasons.

16 And then you go south of there and then
17 you run into Danny Gust's place and then it'll be
18 even closer to him. You know, obviously they feel
19 500 feet is far enough away, but it would be better
20 to see it on the west side, but then you're dealing
21 with other people. I mean, the west side of Danny
22 Gust, you know, get it over there further, and then
23 cut over and come back down. But that would make it
24 further away from our runway. The problems I would
25 see would be coming to Danny Gust's place, that

1 would be problematic for getting closer to there and
2 then cutting up the field.

3 Q Then just one other question. I mean, you've
4 alluded to some sense of -- I guess, I don't want to
5 call it helplessness, but some sense of
6 intimidation, perhaps. But when you've been dealing
7 with these folks one-on-one, back and forth,
8 obviously you've had more than one or two
9 conversations, I mean, have you found them to be
10 pretty honorable and straightforward, other than
11 feeling perhaps overwhelmed?

12 A I -- those guys, they do a good job. They do. They
13 work for the people they work for and they're good
14 at -- they do their work. I haven't had more than a
15 couple meetings with them. And Darrin, Mr. Lahr
16 might be able to expand on that. If I looked in my
17 folder, there's two for sure I know I was at,
18 there's probably another one. And I went to some
19 other township meetings where it wasn't my Mapleton
20 Township that I was associated with, it might have
21 been Durbin or over by the Horace area, just I sat
22 in on 'em so I could learn.

23 Q Sure.

24 A And put in my two cents. And, yeah, they listen to
25 you, they do. The sense I got was they got a job to

1 do and they're going to do it. And I understand
2 that. I got a job to do and I want to convey my end
3 of it, too. So I -- I went in there with that and
4 Mr. Lahr, he's got his job, I got my job, and I
5 don't think we were on the same page.

6 COMMISSIONER CRAMER: Very good. Thank
7 you again for your testimony.

8 MR. DEAN KRAFT: Thank you.

9 JUDGE WAHL: Commissioner Kalk.

10 EXAMINATION

11 BY COMMISSIONER KALK:

12 Q Thank you for your testimony, Mr. Kraft. You know,
13 it's interesting, we've had a lot of wind hearings
14 around the state, and I'm sure you probably know
15 Toby McPherson, and they've come out and testified a
16 lot about the wind farms and how that impacts the
17 business. And so, you know, until the first hearing
18 that someone came and testified, it brings the
19 awareness back up. So thank you for coming out
20 today and walking through your concerns.

21 With that, I guess, is kind of what my
22 colleagues have talked about, is, you know, what do
23 we do. You know, how long is the runway?

24 A They're half mile strips.

25 Q Half mile strips. So to make something a public

1 runway versus a private runway, is that like just a
2 huge step, lights and avionic, I mean, I don't even
3 know.

4 A Yeah, and nor do I. And like Cass and Kindred,
5 they're public runways, and they alluded to that
6 earlier, where I believe Hamery (phonetic) field is
7 Kindred's airport, I could be mistaken on that, but
8 I'm guessing they're reaching out there, those power
9 lines cut across, that's a ways from --

10 Q Is that something you're interested in, is ever
11 making your runway a public runway?

12 A I don't know if I -- I guess I have no idea if I
13 could do that or what it would entail. But, I mean,
14 if I did that there would be numerous property --
15 yeah, it would help out on stuff like this. 'Cause
16 I can see if this power line comes through there's
17 going to be more of them to follow, I'm guessing.

18 Q Sure.

19 A But I have -- I don't have much knowledge on that.

20 Q And looking at your exhibit, and I know you can't
21 speak for UND, but it shows that the University of
22 North Dakota owns the land, I think that's to your
23 east, and NDSU is to the north of there. What do
24 they do with that land? Is it crop research? I
25 don't think that's mostly NDSU or is it their flight

1 school?

2 A No, that's -- actually, they just sold that last
3 year. This is 2011 and it just got sold.

4 Q Okay.

5 A But UND was just a donor that they had that they
6 owned the land and they cashed in.

7 Q So you talked a little bit about the flight school,
8 I think you was talking about the aviation school
9 doing some work there, so that this parcel of land,
10 what used to be there had nothing to do with that,
11 it's just --

12 A No, I just made that reference 'cause I recognized
13 the paint scheme on their planes. And I've seen
14 other airplanes doing air work around and I just --
15 when the plane is up there at about 15, 2,000 feet,
16 doing work and all of a sudden you hear the engine
17 go to idle, I learned how to fly and I practiced and
18 hope to teach my kids, and I know what the
19 instructor is saying, he's saying, okay, where are
20 you going to land? 'Cause the student is
21 concentrating on what he's supposed to do and that's
22 usually when stuff happens, is when you're
23 concentrating on something else and you're supposed
24 to find where to land. And the instructor knows
25 that those strips are there, he's saying, oh, why

1 don't you land here instead of out in that gravel
2 road or something.

3 Q Okay. I did a long time in the Marine Corps and I
4 was a ground guy, but the pilots always talked about
5 we don't like power lines. I used to ask them, so
6 if you have a power line there, what should we do?
7 And they talked a lot about marking. If this power
8 line does get built somewhere close to you, would it
9 be worthwhile for the Commission to investigate them
10 marking them in certain ways so you can find them
11 easier to see?

12 A Yeah, that would help. I know when they put the
13 east-west one further north, we pushed -- I
14 shouldn't say myself, I wasn't even around, but they
15 pushed to have those marked and it was on our
16 nickel. And, you know, I'm sure they didn't have,
17 you know, the cash back then, so -- still don't, but
18 that was on our nickel so they didn't get marked.

19 And I've flown -- and we got lights on
20 our runway and we put it in ourselves and maintain
21 it. I've come in there at night, and I tell you
22 what, I don't forget about those because you can't
23 see 'em, it would be nice to see 'em. The ones to
24 the west there, if they marked them, you know, if
25 they're shrouded by clouds, you ain't going to see

1 'em anyway, you just got to know that they're there.

2 And that's kind of what I alluded to, we
3 have a lot of friends from all over the 48 states
4 and stuff that fly in there and further west is
5 better, I feel.

6 Q If the Commission does go down the road of having
7 the company mark some of these, is there somewhere
8 you can go for, you know, standard marking
9 conventions for power lines, for lack of a better
10 term?

11 A I would guess the --

12 Q FAA has something on that?

13 A -- FAA would have something on that, or the North
14 Dakota Aeronautics Commission would probably do
15 that. I know there's a -- if you travel over to
16 Grand Forks, which I'm sure you guys have, you see
17 there's a south tower and it's just covered with
18 orange balls. And there's a -- there is a aerial
19 applicator that obviously lost his battle there and
20 that's what he got. But it's just covered with
21 them, and there's a reason they're covered with
22 them, 'cause those guys are thinking about where
23 they're going, you know, you do it all day long for
24 two weeks straight, you know, and all it takes is,
25 oh, my oil pressure is going down, where is my field

1 at? Boom, there they are, you forget about 'em, it
2 just takes that long.

3 COMMISSIONER KALK: Okay. Thank you very
4 much.

5 JUDGE WAHL: Commissioner Clark.

6 FURTHER EXAMINATION

7 BY CHAIR CLARK:

8 Q If the line were to be constructed exactly where
9 it's proposed right now, would you feel like you
10 need to move that air strip, is it even a
11 possibility? I don't know what's involved with
12 constructing an air strip. I mean, you had
13 mentioned that that's one of the things the company
14 had --

15 A Yeah. And I guess my point on that is my kids'
16 grandparents, my dad and mom live in the northeast
17 corner of Section 35 and, you know, we got family
18 get-togethers and the planes parked on the runway
19 and the kids are coming over to fly.

20 I mean, you can't -- if you got it down
21 in Kindred or something, you got a runway there and
22 you store it there, you know, if that runway is not
23 there you don't do stuff like that, you know. The
24 other air strip is further away, you know.

25 We got -- all our stuff is there, you

1 know, our shop is in all the Krafts' yards, so if I
2 need to fix it, they open the door, taxi across the
3 road and in we go. And I guess for us, I like
4 having it there. But if you have to move it, you
5 know, we got two runways, this is a better runway,
6 the further west one, the other one has been tore up
7 pretty hard.

8 Q And then one last question. I know there's a
9 concern about the Gust residence down there which
10 would be a problem with the 500-foot avoidance zone
11 if the line was just brought over to the section
12 line. If the line were to come up the half section
13 line, as it basically is proposed right now, I guess
14 it's a little west of that, and cut over at the half
15 section line on 35, kind of in between the two
16 Cossette pieces of property, does that -- does that
17 get you anywhere, or is that still just so close to
18 your runway that it impedes your approaches?

19 A Well --

20 Q I don't know if that makes any sense as I just
21 described it.

22 A No, I understand exactly what you're saying. And I
23 drew that red line on there 'cause there's a -- on
24 that east-west there's a power pole just off the
25 east side -- or on the west side of Section 26 and

1 the sag is going down, and I thought, geez, if I get
2 it over that far, does it cut up his field as bad,
3 you know.

4 Here I am, you know, pitted against the
5 neighbor and then, you know, I know Danny and Janel,
6 I know them, it gets closer to their place. I'm not
7 doing them any favors. They put a lot of work into
8 that house, I mean, I look out the window and --

9 Q Although I guess what I'm asking, I don't know that
10 it would put it any closer to their place, the line
11 as proposed already goes through the Cossette
12 property?

13 A Yep. It actually comes back on the half mile right
14 at the Cossette property there, it jogs back in and
15 gets closer to the runway.

16 Q Right. I'm just wondering if it cut over to, say,
17 161, that 161st Avenue in the middle of 35, and then
18 went up and just hugged the very west edge of your
19 property in 26, does that get it far enough away
20 from the --

21 A Yeah, see I --

22 Q -- runway? I mean, it wouldn't bring it any closer,
23 necessarily, to the Gust property.

24 A I guess Bruce and Kirk has said -- I got the yellow
25 highlight on my -- 'cause that's what's got our name

1 on it, that's what I -- and the runway, you know,
2 you depart to the north or the south, you know,
3 you're a quarter mile, half mile arc going this way
4 or that way.

5 Q Right.

6 A You know, I guess, in my thoughts, and I think I
7 brought it up one time, there was a further west
8 one, and then down 27 and 34 you'd have to go, you
9 know, behind that place, and then you can maybe jog
10 over on that road on the south end, on the north end
11 of Addison, south end of Durbin, and then start
12 heading back south again. Or maybe go three miles,
13 you know, over and then cut over like that, thinking
14 that it would be further away from people's houses
15 and stuff like that. And then that's where I come
16 back again, I mean, I didn't ask for these coming
17 down here and I hate neighbors -- you know, that's a
18 sticky point.

19 Q Yeah. Okay. Thank you.

20 A Thank you.

21 JUDGE WAHL: Further questions from the
22 Commission?

23 Commissioner Cramer.

24 COMMISSIONER CRAMER: I just have to
25 smile thinking about your testimony about the family

1 gatherings with all the airplanes. They used to --
2 the Fargo kids used to tell about the Kindred kids,
3 that they were the ones that flew to school, because
4 our airport is right next to the school, but none of
5 us ever did, Todd, I don't think, did we? No.

6 Thank you for your testimony.

7 MR. DEAN KRAFT: Thank you.

8 JUDGE WAHL: Further questions from the
9 Commission?

10 Ms. Agrimonti?

11 MS. AGRIMONTI: No additional questions.
12 Thank you.

13 JUDGE WAHL: Mr. Armstrong?

14 MR. ARMSTRONG: No additional questions.

15 JUDGE WAHL: Mr. Lein?

16 MR. LEIN: No questions.

17 JUDGE WAHL: Thank you very much,
18 Mr. Kraft.

19 MR. DEAN KRAFT: Thank you.

20 (Witness excused.)

21 JUDGE WAHL: Mr. Reinke. Mr. Reinke,
22 please state your name for the record.

23 MR. PAUL REINKE: My name is Paul Reinke.

24 JUDGE WAHL: What is your residence
25 address?

1 MR. PAUL REINKE: 17538 50th Street
2 Southeast, Hickson.

3 JUDGE WAHL: Is that also your post
4 office address?

5 MR. PAUL REINKE: Yes, it is.

6 JUDGE WAHL: And are you representing any
7 organization or business entity?

8 MR. PAUL REINKE: No, I'm not.

9 JUDGE WAHL: Mr. Reinke, I understand you
10 have some documents you would like the Commission to
11 look at and to be part of the record of this
12 hearing?

13 MR. PAUL REINKE: Yes, I do. I got five
14 copies of the first three, only one of the last.

15 JUDGE WAHL: All right. Mr. Reinke, what
16 is the first document? In other words, where or how
17 did you obtain that document? For the record, this
18 is marked Reinke 1.

19 MR. PAUL REINKE: The first document was
20 created by Stefan Olafson and he is an acquisition
21 agent for CapX 2020. He came out, graciously, to
22 our farm, to notify us that he was going to run a
23 power line through our property. And during the
24 process of that -- actually, backing up just one
25 tiny bit. During the process of some of the

1 diversion talks I acquired a map from the Kindred
2 School so to help learn where the alignments were.
3 And after Mr. Olafson gave us an indication of where
4 the route would be, I said that looked very familiar
5 to what the Kindred School District is. And I asked
6 if he'd be able to overlay the proposed route with
7 the school district map. And they were able to do
8 that.

9 JUDGE WAHL: All right. And so, in
10 effect, you got the map from him?

11 MR. PAUL REINKE: Yes.

12 JUDGE WAHL: All right. Then,
13 Mr. Reinke, I'm referring you to what's marked
14 Reinke 2. How did you obtain that, that document,
15 please?

16 MR. PAUL REINKE: Well, these first two
17 documents are the most important of the whole
18 presentation.

19 On April 6th is when we received the
20 dated letter from CapX 2020 that they were going to
21 run a route through our property. And a couple of
22 days after receiving that notice I accessed their
23 web page, which they highly encouraged people to get
24 in and look at the maps. And at that particular
25 time I printed a copy of this Exhibit Number 2.

1 JUDGE WAHL: All right. From the
2 website?

3 MR. PAUL REINKE: From the website of
4 CapX 2020.

5 JUDGE WAHL: Is that also true for the
6 document which is identified as Reinke 3?

7 MR. PAUL REINKE: That is correct. Only
8 Exhibit Number 3 was a little bit later.

9 JUDGE WAHL: And, finally, Mr. Reinke,
10 what is marked as -- as Reinke 4, will you tell me,
11 please, how you got that exhibit?

12 MR. PAUL REINKE: From public documents
13 available to anybody accessing the Internet. It
14 shows the City of Fargo section grid map. My wife
15 printed it for me, actually, Sunday morning.

16 JUDGE WAHL: All right. And I understand
17 that, Mr. Reinke, you believe that these exhibits
18 would be helpful to the Commission and the
19 Commissioners to explain and help them understand
20 your testimony?

21 MR. PAUL REINKE: I believe it'll be very
22 helpful. The maps will certainly speak for
23 themselves and they will follow the train of thought
24 that I would like to present.

25 JUDGE WAHL: Ms. Agrimonti?

1 MS. AGRIMONTI: No objections.

2 JUDGE WAHL: Mr. Armstrong?

3 MR. ARMSTRONG: No objection.

4 JUDGE WAHL: For the record, Exhibits
5 Reinke 1 through Reinke 4 are each received.

6 (Inaudible conversation - no mic.)

7 JUDGE WAHL: Mr. Reinke, as you heard me
8 advise previous witnesses, your testimony is
9 required to be under oath and I'm required by law to
10 advise you regarding perjury before administering
11 the oath.

12 Perjury is a false statement of material
13 fact which you do not believe to be true. In North
14 Dakota perjury is a Class C felony, punishable by a
15 fine up to \$5,000, imprisonment for a period of up
16 to five years, or both.

17 If you'd raise your right hand, please.

18 Being advised regarding perjury,
19 Mr. Reinke, do you swear that the testimony which
20 you're about to give in this matter shall be the
21 truth, the whole truth, and nothing but the truth?

22 MR. PAUL REINKE: I do so swear.

23 JUDGE WAHL: You may proceed.

24 MR. PAUL REINKE: As I stated a little
25 earlier there, I probably got ahead of the -- a

1 little bit of myself. On April 6th CapX 2020 sent
2 us out a packet that identified our property as
3 Parcel Number North Dakota 136. And due to the fact
4 that on November 19th of 2010, we kind of refer to
5 it as Black Friday, that was the day when the news
6 broke in the Fargo forum that they were going to --
7 our farm was going to be ten feet under water
8 because of the new holding pond. So it's pretty
9 much a date that makes everyone in our neighborhood
10 very skeptical. Any time something looks a little
11 bit out of the ordinary. And that sequence of
12 events of receiving notice of the power line, a
13 couple days after I received notice I got onto the
14 Internet and they have some very good maps, CapX
15 2020 does, to research and let you know what is
16 coming down the road.

17 And at that time and probably, in my
18 estimation, the most important document of all of
19 these is Exhibit Number 2. And this document, if
20 you look up in the legend, the green, very straight
21 line indicates the applicant's preferred route. And
22 so I had that printed in my -- at my house and
23 looking at it, and this was an indication of things
24 to come. Because that particular route is the route
25 that I use many times to go to work. It's a

1 cut-across road to get to Rustad, I cut across and
2 get over to Dilworth and drive trains. That's what
3 I've been doing for over 30 years. So I have a real
4 good idea who lives along that road and was afraid
5 that something might be coming down the pike.

6 We probably had one or two weeks after
7 the notice that they were going to run this route
8 that they sent a representative out, an acquisition
9 agent, Stefan Olafson, who was -- he helped us very
10 much understand the process. He was -- he answered
11 every question we had and made every indication that
12 he was there to help us understand what was coming
13 down so that we could be ready and prepared for it
14 and it was a very good information gathering time.

15 Due to the Black Friday episode, I had in
16 our person at the house Exhibit Number 1. Only at
17 that time it was still only the Kindred School
18 District map. And in that context, I looked at
19 their proposed route, and I overlaid, they're both
20 8-1/2 by 11, the two different pieces of paper that
21 I had at home, and I thought why in the world would
22 a power company make one, two, three, four, five,
23 six, seven different turns in a power line that was
24 originally preferred route straight. And so many
25 red flags are popping up and it seemed like our

1 neighbors to the north were doing a power play and
2 manipulating things.

3 And so due to those circumstances, I
4 really wanted to bring these exhibits, 1, 2 and 3,
5 to the Commission's attention. That if they are
6 able to do that, maybe there's parts of Exhibit
7 Number 1 that are not completely justified or looked
8 into. And Exhibit Number 1 would be the 385-page
9 document that they're out here -- that's pretty much
10 can we come into North Dakota with our power line.

11 If I'm getting off course, just tell me,
12 because if something is not adding up that I'm
13 saying I certainly can be questioned. I'll probably
14 be better at answering questions than I am putting
15 out the information.

16 Exhibit Number 4 -- or, let's see, no,
17 let's go to 3 here. Now, Exhibit Number 3 is
18 probably what you can find on their website right
19 now.

20 JUDGE WAHL: Mr. Reinke, let me just, for
21 the record, you should continue just as you are,
22 there's no problem, but let me just say that when
23 you refer to Exhibit 2 or Exhibit 3, you're
24 referring to Reinke 2 and Reinke 3.

25 MR. PAUL REINKE: Okay. Sorry.

1 JUDGE WAHL: No, that's fine.

2 MR. PAUL REINKE: Yep. Because Exhibit
3 Number 1 I meant for what everyone already has.

4 JUDGE WAHL: That's right. You're going
5 to be referring to that later, I guess.

6 MR. PAUL REINKE: Yes, I will. Yep.

7 Okay. So Reinke Exhibit Number 3 is what
8 I'm sure that everyone here could find on the
9 Internet right now. And if you would compare Reinke
10 Exhibit Number 2 and Reinke Exhibit Number 3, the
11 still very straight line at the top changed colors.
12 And to me that seems like our pals up to the north
13 had a little bit to do with that. Because going
14 back to Exhibit Number 1, and if I were building a
15 fence to keep cattle in, or a power line, I would
16 probably go with a straight line. And it seemed
17 like there was too much influence from a different
18 force. And I thought they were being influenced
19 unfairly. The original preferred route of Reinke
20 Exhibit Number 2 would have affected fewer
21 residences.

22 Because they're new, Reinke Exhibit
23 Number 3 goes parallel to an existing development
24 that's already there. And I've heard testimony
25 today that, well, they would like to stay out of the

1 dry side for future development. There's already a
2 development here that they put it by, that they
3 would like to put it by.

4 Also, I heard testimony that they thought
5 it would be fairly safe or a better place to put it
6 south of the proposed diversion. I don't have that
7 number here, but I know what's been told to me
8 hypothetically. And there again, the huge word is
9 proposed. The proposed diversion would put nine
10 feet of water on our house so it would be not a
11 problem then. But if it's no diversion, they are
12 saying that they would rather have their power poles
13 running through nine feet of water than somewhere on
14 dry land. And that doesn't seem very -- well, I'm
15 not an engineer so I guess that's just hypothetical
16 thinking about that.

17 And now getting to the last Reinke
18 exhibit, number 4. If a person would compare that,
19 and Commissioner Clark, I believe, is probably the
20 only one that has that right now, or that's where it
21 was at. That particular map and exhibit, Reinke
22 Exhibit Number 4, number 4 and 1 are the same scale
23 and so you can match them up real easy. And the
24 bottom of Reinke Exhibit Number 4 is all colored in
25 green. And if I were a legal map person I'd be able

1 to explain exactly what it is, but the legend does.
2 And the legend says that it's Fargo, let's grow
3 there. Not exactly, I can't say that, I suppose,
4 that's conjecture. So that's it for those exhibits
5 that I wanted to expound upon.

6 Okay. Now I can go to the regular
7 Exhibit Number 1.

8 JUDGE WAHL: Yes. Just refer the
9 Commissioners to the page number you're referring
10 to.

11 MR. PAUL REINKE: Okay. Well, the
12 Exhibit Number 1, which is case number PU-07-759, is
13 385 pages. Pretty impressive. For \$30 you can go
14 and have a binder made and put in 394 pages. So
15 there's quite a bit of stuff in here that I believe
16 is fairly irrelevant.

17 Well, let's see, I don't even have to
18 look for one of my neat little pink markers because
19 it's actually -- they actually took the time and put
20 it all in Appendix Number D. Which would be right
21 in the beginning of the whole pile there.

22 Diversion, Appendix D, refers to the diversion
23 project information, 46 pages. So if you took 46
24 pages away from 385 then this wouldn't be so large.
25 And the 46 pages referring to the diversion project,

1 which still, as far as I had last heard, is a
2 proposed project. So there was quite a few pages in
3 here that are being based on something that's
4 proposed, not funded. And that being the fact to me
5 puts question once again to their whole request for
6 this, where it's at. You know, what's valid if 46
7 pages are on conjecture.

8 As soon as I find my one last note it'll
9 get a little quicker here.

10 All right. Commissioners, if you'd use
11 Exhibit Number 1, and 7, Section 7, page 38.
12 Everybody seems to be pretty much on that page.

13 It's my opinion that the very top of this
14 page refers specifically to our property. Because
15 the property that is parcel number 136 is all
16 wooded, and so if I'm not correct on that anyone can
17 certainly refute that paragraph, although my mother
18 was an English teacher so I was getting drilled on
19 words all the time.

20 JUDGE WAHL: Mr. Reinke, I'm sorry, did
21 you say page 738?

22 MR. PAUL REINKE: Section 7, page 38. Is
23 that correct or not?

24 JUDGE WAHL: Well, I don't --

25 MR. PAUL REINKE: Environmental

1 information.

2 JUDGE WAHL: No, I see it is. I'm
3 looking at what the Commissioners have. And I'm
4 looking at the wrong book. You're right, I'm wrong.
5 Go ahead.

6 MR. PAUL REINKE: And in that paragraph,
7 and I certainly can be wrong on this, but it's
8 referring to -- would it be better for me to read it
9 or just not?

10 JUDGE WAHL: Well --

11 MR. PAUL REINKE: I guess for the part
12 that I believe is relevant, if you want me to read
13 it I certainly can.

14 JUDGE WAHL: No, you don't need to read
15 it, simply point it out to the Commission and
16 counsel.

17 MR. PAUL REINKE: Okay. In there it says
18 approximately one acre of the total area is
19 forested. Well, if there's only one acre of this
20 whole route that's forested, that certainly is it.
21 As a matter of fact, I have a document from the
22 North Dakota Forest Service that indicates that
23 there's actually 1.4 acres there of bottomland
24 hardwood.

25 CHAIR CLARK: To clarify, make sure I'm

1 on the right page, I see in the 7-38 that I have
2 discussion of less than one percent, 339 acres, I
3 guess is there somewhere else it discusses one acre?

4 MR. PAUL REINKE: Just a couple lines
5 underneath that.

6 CHAIR CLARK: Okay. Okay. I see
7 forested land -- okay. Thank you.

8 MR. PAUL REINKE: And I have
9 documentations for the North Dakota Forest Service
10 that indicates that it's, as I said, bottomland
11 hardwoods. And it's been a while with some of my
12 math, and with today's electronics, most of it you
13 can do with a computer or a calculator. But if
14 they're claiming 1 percent, and I have a document
15 from the North Dakota Forest Service that says 1.54,
16 the ratio of 1 to 1.54 is fairly drastic. If they
17 use that figure and multiply it times their
18 projected cost of 550 million to 750 million, I
19 think they'd be running into some problems.

20 And I guess as before -- well, actually,
21 to help understand that, I can have you refer to one
22 more exhibit, and that would be included in Exhibit
23 Number 1, and it's Map 40 of Exhibit Number 2.

24 I see the legal representative there is
25 looking at it. I believe you had it. Yep.

1 JUDGE WAHL: Yes, I think everybody's got
2 it, Mr. Reinke.

3 MR. PAUL REINKE: Perfect. Because
4 that's an aerial view of our property and it should
5 show that it's all trees.

6 Now, again, the document that the North
7 Dakota Forest Service produced for me on the survey
8 of the trees, it's documented in there that there
9 are several 100 year old trees, which obviously is
10 fairly rare. And Mr. Olafson, when he came out to
11 talk to us, was very helpful. Maybe not able to
12 solve that problem because I said, you know, you
13 need some electricity here or there, those trees are
14 kind of nice, should be no problem going to the
15 nursery and getting a couple new 100 year old trees.
16 He didn't really think that was as funny as I did.

17 Now, I'm just about done, and I'm a lot
18 better at answering questions, maybe 'cause I can
19 maybe find them and maybe not.

20 This is not an exhibit, Reinke exhibit,
21 so can I refer to it, I suppose, or not?

22 JUDGE WAHL: You can -- well, why don't
23 you proceed, let's see how it goes.

24 MR. PAUL REINKE: Okay. Well, it was
25 sent out by CapX so it should go fairly well. And,

1 actually, we want to hear from you, Mr. Lahr is
2 right on there, so he did want to hear from us. And
3 so on this more or less half of a page postcard, and
4 maybe they put a date, maybe not. Nope, I don't see
5 a date on here. It wasn't sent very long ago. This
6 one I'm going to have to read because I have the
7 only copy, if I can do that?

8 JUDGE WAHL: Go ahead.

9 MR. PAUL REINKE: All right. This is
10 sent out to CapX 2020, to our residents. The
11 Minnesota Public Utilities Commission approved the
12 route permit application for the CapX 2020 Fargo to
13 St. Cloud transmission line on June 10th, 2011. The
14 approved route will connect to the Quarry substation
15 near St. Cloud and at a new Bison substation west of
16 Fargo.

17 The North Dakota portion of the project
18 has not yet been approved. A route permit
19 application will be filed in that state in summer of
20 2011. The approved route in Minnesota generally
21 follows the Interstate 94 from the North Dakota
22 border south of Fargo to the Alexandria switching
23 station. From Alexandria the line will continue
24 east mostly along Interstate 94 to Sauk Centre where
25 it heads along county and township roads near

1 Albany, Collegeville and St. Joe to the new Quarry
2 station west of St. Cloud.

3 Utilities have been -- have started
4 contacting landowners between Alexandria and
5 St. Cloud to begin the easement. The process,
6 construction of this agreement is expected to begin
7 in late 2011. The Fargo - St. Cloud project,
8 including the North Dakota segment, will be
9 energized in 2015.

10 Now, this draws a map that says that the
11 Minnesota alignment -- or route is permitted. And
12 today I heard probably the best news I've heard
13 about this whole thing for a long time. And that
14 was when Mr. Lahr testified that Minnesota does have
15 an option for a loop-back. And up until then I'm
16 quite certain that none of the acquisition agents
17 are telling some of these older farmers that, no,
18 even though the bull's-eye is drawn on you, there is
19 an option. So this waiting this long was certainly
20 worthwhile today.

21 And I really don't have anything else,
22 but I can try to answer any question.

23 JUDGE WAHL: Ms. Agrimonti?

24 MS. AGRIMONTI: Thank you, Your Honor.

25 Thank you for coming. I do not have any questions.

1 JUDGE WAHL: Mr. Armstrong.

2 EXAMINATION

3 BY MR. ARMSTRONG:

4 Q Mr. Reinke, you were talking during your testimony
5 about your property and your property is on Map 40?

6 A Yes.

7 JUDGE WAHL: Of Exhibit 2.

8 MR. ARMSTRONG: Exhibit 2.

9 BY MR. ARMSTRONG:

10 Q You heard the testimony this morning about
11 development in that area, or a plat in that area, is
12 that you?

13 A No, that would be possibly west of Highway 81 where
14 there is actually an existing development just less
15 than a quarter mile south of the proposed route.

16 Q And if I were, I guess, to sum it up as I understand
17 it, you prefer the northern route rather than the
18 route that goes through your property?

19 A Absolutely. Because I have family and friends that
20 live in the existing development. Along with I'm
21 not really too crazy about having a power line in
22 our backyard.

23 MR. ARMSTRONG: I have nothing further.

24 JUDGE WAHL: Mr. Lein.

25 EXAMINATION

1 BY MR. LEIN:

2 Q Just one. Do you have a legal description? Is
3 1-37-48 your section number here?

4 A I can produce something that would give the
5 latitude, longitude and GPS readings of all four
6 corners of that parcel.

7 Q I probably don't need that. Is your property right
8 on the river?

9 A It would be the gateway to the west for this thing.

10 Q Okay. I think I got it here in the picture.

11 MR. LEIN: Thank you.

12 JUDGE WAHL: Nothing further, Mr. Lein?

13 MR. LEIN: No, nothing. Thank you.

14 JUDGE WAHL: Questions from the
15 Commission?

16 Commissioner Cramer.

17 EXAMINATION

18 BY COMMISSIONER CRAMER:

19 Q I have a really basic question for you. As I look
20 at this aerial shot of Map 40 there are dense, dark
21 green leaved trees and there's dense pockets of
22 light green leaved trees. Is that just a function
23 of the printer or are these two different types of
24 trees?

25 A I'd be able to produce the report that the North

1 Dakota State Forester made. He did a survey down
2 there, catalogued what's growing, and he is a -- has
3 a degree. He maybe is almost retired now, Bob
4 Harstell is his name. And I have that document at
5 my table if you'd be interested in reading that.

6 Q Well, I don't -- I'm curious about it only in the
7 sense that I think I drew from some of your
8 testimony that there's some relevance to the type of
9 tree, both the age and the type of the tree that
10 would be removed.

11 One of the things, maybe I should state,
12 is I'm intrigued by your reference to the 1 percent
13 versus 1 and a half percent, which represents the
14 percentage of the entire route that is forested,
15 which I think your distinction is right, I mean,
16 it's a pretty big variance, if you will. More
17 interesting to me, however, isn't how much of the
18 route is forested and impacted, but rather how much
19 of North Dakota's forest is impacted. If that makes
20 sense. And the reason I say that is we have a great
21 deal of experience with river crossings of utilities
22 on this Commission, we have sited lots of miles of
23 things, including pipelines and whatnot. It's
24 pretty difficult to cross a river without affecting
25 trees.

1 A Absolutely.

2 Q And so as I -- when I look at this map, you know,
3 Map 40, and your property, while it might not be the
4 narrowest portion of forest covered, it's one of the
5 narrower places they could cross the river in this
6 entire photo. Does that make sense?

7 A Absolutely. I think you're 100 percent right. It
8 works great for bow hunting.

9 Q You have a way with picture words.

10 So with that understanding, I mean, we
11 all -- we have a different appreciation for trees in
12 North Dakota than they do in Minnesota, I think we
13 could safely say. But it does seem to me like it
14 almost looks, looking at at least this snapshot,
15 that they've chosen one of the places with the least
16 impact on forest rather than one of the greater --
17 realizing it's your forest, I understand that's your
18 concern, but from the broader perspective would that
19 be a fair statement?

20 A I think that's an absolutely correct statement.

21 Q Then let me ask you about -- you prefer the northern
22 route and I can understand why, straight lines
23 notwithstanding, but you heard the earlier
24 discussion in my testimony -- or my
25 cross-examination, that more southern route that

1 follows -- that would come across down somewhere
2 around Breckenridge and then follow an I-29
3 corridor, realizing that's a lot more North Dakota
4 miles, not familiar necessarily with what kind of a
5 corridor that could be, what kind of an impact that
6 could have on landowners and all that, is that a
7 route with which you're at all familiar and would
8 you have any opinion on it?

9 A I'm not really quite as familiar with that. I
10 didn't research that part as well. I guess it set
11 off a red flag for me, especially in lieu of the
12 November 19th, 2010, so I thought if that's
13 preferred, that's a good spot for it.

14 Q Yeah.

15 A And I certainly would not be the one under testimony
16 to say put it by Wahpeton. I also have family and
17 friends there.

18 Q Well, that's the problem we have, isn't it. But,
19 anyway, that's our problem.

20 A Yeah.

21 COMMISSIONER CRAMER: I don't have
22 anything further. But thank you for your courage
23 and your very good testimony.

24 MR. PAUL REINKE: Thank you.

25 JUDGE WAHL: Commissioner Clark.

1 CHAIR CLARK: Just a couple.

2 EXAMINATION

3 BY CHAIR CLARK:

4 Q Thanks for being here. The transmission line is how
5 many feet from your home? Do you have a sense?

6 A Well, yes, I do have a -- it's far enough away to
7 meet the bare minimum.

8 Q Okay.

9 A Stefan Olafson did mention to us that it was one of
10 the two closest on the route to an established
11 dwelling. And, once again, it could certainly be,
12 because it looked like it was a place to work this
13 in on a narrow spot with trees. There's actually an
14 abandoned farm that's on the Minnesota side. So
15 that could have some bearing on what they -- where
16 they came up with a little bit of their thought.

17 Q Thank you. And then Exhibit 4, which was this map
18 here, which is the section grid map of the City of
19 Fargo, and you've highlighted where the original
20 route is proposed there. Is the purpose of
21 Exhibit 4 to show exactly where the edge of Fargo's
22 extraterritorial zoning --

23 A Exactly.

24 Q -- rights exist and where the original --

25 A That was my exact hope that that would be portrayed.

1 Q -- route was proposed? Okay. Thank you.

2 JUDGE WAHL: Commissioner Kalk.

3 EXAMINATION

4 BY COMMISSIONER KALK:

5 Q Thank you, Mr. Reinke, for your testimony. We all
6 talked about in the beginning that the best thing
7 coming out here is to get, you know, your feedback,
8 unfiltered, buffered through anybody.

9 So I guess my direct question is, you
10 talked about forces to the north manipulating this,
11 what do you mean? Do you mean the City of Fargo? I
12 mean, 'cause I heard testimony this morning, they
13 were saying the diversion did this and I had a lot
14 of questions back. But get right to it, what are
15 you talking about?

16 A That's a good question and I got a fairly good
17 answer for you. Right from the Public Service
18 Commission case number, which is on the cover of
19 Exhibit Number 1, there are -- also, this is --
20 would this be document -- considered document number
21 44?

22 UNIDENTIFIED: It is.

23 MR. PAUL REINKE: From that case number I
24 believe that this Exhibit Number 1 is considered
25 document number 44.

1 Okay. So I was going to actually ask the
2 Honorable Mr. Wahl if I could give this whole thing,
3 but he said --

4 JUDGE WAHL: Right. We have them, yep.

5 MR. PAUL REINKE: So if -- and I did not
6 enter this as an exhibit, document number 4, from
7 this case would explain my feeling that possibly
8 somebody up north had something to do with it. It's
9 part of public records.

10 CHAIR CLARK: Say that again, you said 4?

11 MR. PAUL REINKE: Well, you can have this
12 one, I can tear it out.

13 CHAIR CLARK: Oh, no, just the page
14 numbers is fine.

15 MR. PAUL REINKE: Well, see, now there
16 would be the difference between 385 pages and 394
17 pages. I was going to give you a couple extra
18 pages.

19 MR. SIMPSON: It is Exhibit 25 for the
20 hearing today.

21 BY COMMISSIONER KALK:

22 Q I guess what I'm trying to get right to, though, is
23 you heard the testimony this morning that the
24 company made the case or tried to make the case that
25 the biggest driving factor was they wanted to be

1 able to have the line south of the diversion so they
2 could have some certainty in there. You're saying
3 you basically disagree with all that testimony that
4 we heard this morning?

5 A I certainly would question most of it.

6 Q Okay. So, you know, Commissioner Cramer talked
7 about this a little bit, but what do you feel about
8 the reliability concerns of this line? I mean, do
9 you buy into that, yes, we need this line for
10 reliability in the region?

11 A All the lights work in our house right now.

12 Q So who serves your power, I guess, is it Cass County
13 Electric?

14 A Yes.

15 Q Okay. So, all right. But you didn't have a
16 recommendation other than just not right here? I
17 mean, you prefer to the north?

18 A I have family and friends that live right adjacent
19 to this proposed route and they have a huge concern
20 that the devaluation of property values, with a
21 150-foot tower power line 400 yards north of their
22 property. Which their property is already -- and
23 this is a little different subject, but it needs to
24 be out there. They've all lost property value
25 tremendously already just because of the

1 hypothetical talk of a proposed diversion.

2 Q Sure. Well, I think maybe this is probably outside
3 of the hearing today, but it's just -- it'll be an
4 interesting work session we'll have, because
5 regardless of how this turns out you folks have had
6 a lot thrown at you in the last year or so.

7 A Well, actually, this is south of us and the
8 diversion is north. So if they can't get us out of
9 there by drowning us I think they're going to put
10 another thing in there.

11 Q And that was some of the discussion this morning
12 about, you know, what is the most affordable route,
13 what is the best route for the consumer, so that's
14 why I appreciate your candid testimony about, you
15 know, laying your cards out there on the table, this
16 is what you think. And then we can go back and then
17 address some of those specific concerns because your
18 testimony is now on the record, so.

19 A Well, I'm very grateful the way things turned out
20 and the encouragement by the Honorable Mr. Wahl to
21 persevere with getting exhibits up there for
22 everybody to see so they could better understand my
23 point of view.

24 Q But the only thing, I guess I'll just close with
25 this, Commissioner Clark, he did a very good job

1 laying it out this morning of what the Commission
2 has already approved, if you will. We've already as
3 a Commission said that this is a needed line.

4 A Absolutely.

5 Q So we got to figure out where to put it.

6 A Yeah.

7 Q And that's kind of where, I guess, at the end of the
8 day, this will all sort itself out. But thank you
9 for your good testimony.

10 A Yep, thank you.

11 JUDGE WAHL: Commissioner Clark.

12 CHAIR CLARK: Thank you.

13 FURTHER EXAMINATION

14 BY CHAIR CLARK:

15 Q The question occurred to me with regard to the
16 original route and the route that's been submitted
17 and the fact that the route that's been submitted is
18 outside of the Fargo's extraterritorial zoning area,
19 as is the original route. Have you had any contact
20 with Cass County, both are within Cass County, and
21 as landowners in that area and understanding that I
22 guess I don't recall anything that, you know, as
23 specific as the Fargo letter from Cass County that
24 we've received, although I may have overlooked it.
25 But any -- I guess we have the Cass County highway

1 access and utility permit. But have you as
2 landowners had interaction with the county?

3 A Not very much on this subject.

4 CHAIR CLARK: Okay. All right, thank
5 you, that's all I have.

6 JUDGE WAHL: Further questions from the
7 Commission?

8 Follow-up, Ms. Agrimonti?

9 MS. AGRIMONTI: No, thank you, Your
10 Honor.

11 JUDGE WAHL: Mr. Armstrong?

12 MR. ARMSTRONG: No questions.

13 JUDGE WAHL: Mr. Lein?

14 MR. LEIN: No questions, Your Honor.

15 JUDGE WAHL: Thank you very much,
16 Mr. Reinke.

17 MR. PAUL REINKE: Thank you,
18 Commissioners and Judge Wahl.

19 (Witness excused.)

20 JUDGE WAHL: Is there anyone else who
21 wishes to address the Commission? Please come up.

22 Yes, but I need some of the other copies,
23 too, to put them together, but I'll do that.

24 Please state your name for the record.

25 MR. MICHAEL BICE: Good afternoon, Your

1 Honor and Commissioners. My name is Michael Bice,
2 I'm a homeowner in the Bakke addition.

3 JUDGE WAHL: Just a minute. Now, can you
4 spell your first name for me, please?

5 MR. MICHAEL BICE: Michael,
6 M-I-C-H-A-E-L, Bice, B-I-C-E.

7 JUDGE WAHL: Mr. Vice (sic), what is your
8 residence address?

9 MR. MICHAEL BICE: 305 7th Street,
10 Hickson, North Dakota 58047.

11 JUDGE WAHL: And that's also your post
12 office address?

13 MR. MICHAEL BICE: Yes, it is. I'm
14 also -- oh, sorry, Your Honor.

15 JUDGE WAHL: Do you represent any
16 organization or business entity?

17 MR. MICHAEL BICE: I am the owner of the
18 Knickerbocker in Hickson, North Dakota as well.

19 JUDGE WAHL: All right. So you appear
20 both -- is that your business, you're the owner?

21 MR. MICHAEL BICE: Yes.

22 JUDGE WAHL: So you're appearing both for
23 your business and for yourself individually?

24 MR. MICHAEL BICE: That is correct, sir.

25 JUDGE WAHL: Mr. Vice (sic), as you heard

1 me advise previous witnesses, your testimony is
2 required to be under oath and I'm required by law to
3 advise you regarding perjury before administering
4 the oath.

5 Perjury is a false statement of material
6 fact which you do not believe to be true. In North
7 Dakota perjury is a Class C felony, punishable by a
8 fine up to \$5,000, imprisonment for a period of up
9 to five years, or both.

10 Will you raise your right hand, please?

11 Being advised regarding perjury, Mr. Vice
12 (sic), do you swear that the testimony which you're
13 about to give shall be the truth, the whole truth,
14 and nothing about the truth?

15 MR. MICHAEL BICE: Yes, Your Honor.

16 JUDGE WAHL: You may proceed.

17 MR. MICHAEL BICE: I have one question
18 first. Am I allowed to -- I don't have all the
19 documentation that Paul has, unfortunately. My
20 questions derive a little bit from the earlier
21 testimony from this morning. Am I allowed to
22 question anybody that was previously answered or do
23 I have to make statements?

24 JUDGE WAHL: No, I'm sorry, you're not --
25 you're not allowed to question, you may simply make

1 a statement.

2 MR. MICHAEL BICE: Okay. As my statement
3 says, I heard earlier, I believe -- I believe it was
4 Exhibit Number 2 when they were questioning
5 Mr. Lahr, that there is documentation from the City
6 of Fargo that had concerns concerning the power line
7 post in flood prone areas. And that was, I believe,
8 the concern of Fargo's article from what I heard.
9 If I'm incorrect, I apologize.

10 Then the question was answered more on
11 the terms of the location of the power grid and of
12 economic development. So my question is if Fargo is
13 concerned by the original letter, and I'm assuming
14 what I heard earlier was that, that how would it be
15 better to have the power lines outside of the dam
16 and diversion, which is eight to ten feet deep of
17 water, if they were concerned with one or two poles
18 and flood prone areas prior to the diversion being
19 built? And, like I say, I can only go on what I
20 heard under that. That's my first question that I
21 would hope that somebody resolves.

22 Secondly, and backing up with what
23 Mr. Reinke had said, and he had done an adequate
24 job, as far as the original preferred line being
25 three miles or so north of where it is currently.

1 As I am from western North Dakota and I know how to
2 build fence as well, it would seem to me that it
3 would be cheaper, cheaper to build it that way. And
4 also from educating myself today from Mr. Kline's
5 and Mr. Lahr's testimony, it seems if you're closer
6 to your major source of the power grid it's better
7 for everything.

8 They had referred to the fact of a
9 substation being in close proximity where they're
10 bringing the line across, but from what I know about
11 the Fargo diversion, that current substation appears
12 to me to be right in the line of the diversion
13 and/or on the south side of the diversion. And it
14 serves pretty much Oxbow, Hickson, Bakke addition,
15 and most of the farms that if the proposed diversion
16 were to be built would eliminate that. So in my
17 mind it kind of self precludes it not be a reason to
18 build it at that location, it should possibly be
19 farther north.

20 And my -- just, like I say, layman's
21 terms, I live within a half a mile of the proposed
22 thing, or excuse me, the proposed diversion and
23 proposed power line location.

24 Also, my other concern is if they do not
25 build this diversion or if they move it north,

1 because as you've seen on the north end, they've
2 moved the alignment over a mile already, who is to
3 say they can't move it on the south side?

4 And then we've already had, as Mr. Reinke
5 had went to our deteriorated property values because
6 of just an idea of the diversion. So now what
7 happens if that isn't built, and the power line is
8 going to be built far before the diversion is built,
9 we're sitting there 20 years from now and the
10 diversion is a smaller one maybe around Fargo and we
11 got this here which limits Oxbow or Hickson's or
12 Bakke's or Pleasant Township's or Cass County's room
13 for growth by itself.

14 Which leads me into probably my final
15 point. Is it appears through the documentation, I
16 believe Commissioner Clark had mentioned that, I
17 believe it's Exhibit 30 you want, as far as you
18 wanted documentation of what Fargo questioned to the
19 alignment of the power line. Was that for the power
20 grid or was that for future growth? Which was that?
21 I would maybe suggest that you make it clear.

22 'Cause it seems to me what I heard originally, it
23 was for the future development, but as the way it
24 got worded it seemed it was for better location of
25 the power grid. And it didn't seem to make sense to

1 me as I'm getting educated today. The closer you
2 are in lines from Mr. Kline. And so the two don't
3 make sense the way it come out in the question. So
4 I would want to know if it was for the future growth
5 or for the power grid.

6 And also one final thing. Also due to
7 the fact that either route of this is the preferred
8 original plan and the current one, it goes through
9 Cass County and the townships first of all, not the
10 city of Fargo. I mean, maybe there are
11 extraterritorial rights someday, but currently it's
12 Cass County, so why was Cass County or the State of
13 North Dakota not consulted as opposed to the City of
14 Fargo?

15 And I guess I'll accept questions from
16 anybody, I appreciate the time to speak.

17 JUDGE WAHL: Ms. Agrimonti?

18 MS. AGRIMONTI: Thank you, Mr. Bice. I
19 have no questions.

20 JUDGE WAHL: Mr. Armstrong.

21 EXAMINATION

22 BY MR. ARMSTRONG:

23 Q Mr. Bice, where is your property located?

24 A I live in the Bakke addition, which is approximately
25 one-half mile south of the proposed power line.

1 Q Where are you from Mr. Reinke?

2 A I'm not positive where Paul lives exactly. He lives
3 right on the river. I'd be south of him in the
4 development across the road from Oxbow, I'd be right
5 here. If you get one of the bigger maps that
6 Mr. Reinke gave me, I can show you on one of those
7 two big color maps you have over there, sir. I see
8 I'm not as prepared as well.

9 Okay. If I can find Oxbow. So I live in
10 the first road, pretty much, and my house is right
11 here, my business is right there.

12 Q What is your business?

13 A We're a bar and liquor store. So within that, as
14 well, sir, the community around and the potential
15 for growth, without the power line being so close,
16 would become a future interest of mine due to the
17 fact that if you can't build within 1,000 feet to
18 the north, which is by some plotted developments,
19 would be a concern.

20 JUDGE WAHL: Mr. Armstrong, are you going
21 to make a record with whatever information you have
22 there?

23 MR. ARMSTRONG: I'm trying to, Judge.

24 JUDGE WAHL: Okay. I'm sorry, I -- take
25 your time.

1 MR. ARMSTRONG: I think the best thing to
2 do with it would be to just list the addresses to
3 find them because they won't show up on the more
4 zoomed in maps because they're a half mile away.

5 JUDGE WAHL: Oh, I see.

6 MR. MICHAEL BICE: Would you like the
7 address of the bar, sir?

8 MR. ARMSTRONG: I think that would -- or
9 I could just use this as, you know --

10 JUDGE WAHL: Well, you could take, we
11 could -- the other thing to do would be to mark that
12 exhibit in your hand, mark it as a new exhibit, and
13 then mark --

14 MR. SIMPSON: You could just make this
15 Bice 1.

16 JUDGE WAHL: Mr. Vice's (sic) location.

17 MR. SIMPSON: Just make this Bice 1.

18 JUDGE WAHL: Okay. And then are you
19 going to label what -- label his residence and his
20 business?

21 MR. MICHAEL BICE: They're pretty small
22 in there so I'll give the address as well for the
23 record. The bar address is 412 Main Avenue,
24 Hickson, North Dakota 58047. 'Cause it's pretty
25 hard even with a pen for me to point to either one

1 on that map.

2 BY MR. ARMSTRONG:

3 Q Mr. Bice, I'm showing you, previously I put two dots
4 on this map that Mr. Reinke produced and I put a
5 circle on the one by it. Is that your residence
6 generally?

7 A Generally, yes.

8 Q And a circle with a number 2 by it, is that
9 generally your business?

10 A Generally, yes.

11 MR. ARMSTRONG: We can mark this as
12 Bice 1.

13 JUDGE WAHL: Ms. Agrimonti?

14 MS. AGRIMONTI: No objection.

15 JUDGE WAHL: Vice (sic) 1 is received.

16 MR. ARMSTRONG: I have no further
17 questions.

18 JUDGE WAHL: Mr. Lein?

19 MR. LEIN: No questions, Your Honor.

20 JUDGE WAHL: Questions from the
21 Commission?

22 Commissioner Kalk.

23 EXAMINATION

24 BY COMMISSIONER KALK:

25 Q Thank you for your testimony. Just a couple

1 questions. Who provides you your electricity at
2 your residence and also at the Knickerbocker?

3 A Cass County Electric, sir.

4 Q For both of those, okay. And then just, I guess, a
5 comment back for you is that, you know, the same
6 questions that you had about some of the testimony
7 this morning, rest assured that the same questions
8 are here and that stuff will sort itself out in the
9 work session, I think, so thanks for pointing out
10 those issues.

11 A Thank you.

12 JUDGE WAHL: Further questions from the
13 Commission?

14 Commissioner Cramer.

15 COMMISSIONER CRAMER: You know, I guess I
16 don't. I think the theme is pretty clear. But I
17 appreciate very much your testimony and your
18 courage.

19 MR. MICHAEL BICE: Thank you, sir.

20 JUDGE WAHL: Further questions from the
21 Commission?

22 Follow-up, Ms. Agrimonti?

23 MS. AGRIMONTI: No, Your Honor.

24 JUDGE WAHL: Mr. Armstrong?

25 MR. ARMSTRONG: No, Your Honor.

1 JUDGE WAHL: Mr. Lein?

2 MR. LEIN: No, Your Honor.

3 JUDGE WAHL: Mr. Vice (sic), let me be
4 sure. Did I misunderstand you? I am spelling your
5 name V-I-C-E. Is it B-I-C-E?

6 MR. MICHAEL BICE: B as in boy.

7 JUDGE WAHL: I'm sorry. But I have it
8 now. Thank you very much, Mr. Bice.

9 MR. MICHAEL BICE: Thank you, Your Honor,
10 and thank you, Commissioners.

11 (Witness excused.)

12 JUDGE WAHL: Is there anyone else who
13 wishes to address the Commission?

14 Please state your name for the record.

15 MR. ERIC HILLMAN: My name is Eric
16 Hillman. My address is 314 5th Avenue, Mapleton,
17 North Dakota. Mailing address is PO Box 281.

18 JUDGE WAHL: Is it H-I-L-L-M-A-N?

19 MR. ERIC HILLMAN: Correct.

20 JUDGE WAHL: Mr. Hillman, are you
21 representing any organization or business entity?

22 MR. ERIC HILLMAN: Yes.

23 JUDGE WAHL: And that is?

24 MR. ERIC HILLMAN: The City of Mapleton.
25 I sit on the city council there.

1 JUDGE WAHL: Mr. Hillman, as you heard me
2 advise previous witnesses, your testimony is
3 required to be under oath and I'm required by law to
4 advise you regarding perjury before administering
5 the oath.

6 Perjury is a false statement of material
7 fact which you do not believe to be true. In North
8 Dakota perjury is a Class C felony, punishable by a
9 fine up to \$5,000, imprisonment for a period of up
10 to five years, or both.

11 Will you raise your right hand, please?

12 Being advised regarding perjury,
13 Mr. Hillman, do you swear the testimony which you're
14 about to give in this matter shall be the truth, the
15 whole truth, and nothing but the truth?

16 MR. ERIC HILLMAN: Yes, I do.

17 JUDGE WAHL: You may proceed.

18 MR. ERIC HILLMAN: I'm just here from the
19 city council, that we have some concerned citizens
20 on the proposed routing on the west side of
21 Mapleton. Because landowners have petitioned CapX
22 to move the line a half mile closer to Mapleton it
23 now puts it right on Mapleton city limits.

24 We have the interesting situation that
25 the corner in Mapleton, we sit on four different --

1 the city of Mapleton sits on four different
2 townships.

3 So I know the common saying is not in my
4 backyard, but -- and I understand that. Growing up
5 farming I know what it's like to drive around or
6 farm around poles. So I have talked to the property
7 owners that proposed the adjustment to the east and
8 they voiced their concerns and I understand that.

9 I did state to them that I would bring
10 this letter to the Commission and to the CapX and be
11 recognized that Mapleton, as a city and its
12 residents, we oppose the placement of the line that
13 close to our city.

14 JUDGE WAHL: Oh, I'm sorry.

15 MR. ERIC HILLMAN: Do you want me to
16 bring it up there?

17 JUDGE WAHL: I'll come and get it.

18 MR. ERIC HILLMAN: I went and made
19 copies, I have enough for everybody.

20 JUDGE WAHL: Well, I think foundation is
21 apparent.

22 Ms. Agrimonti?

23 MS. AGRIMONTI: No objection.

24 JUDGE WAHL: Mr. Armstrong?

25 MR. ARMSTRONG: No objection.

1 JUDGE WAHL: Let's call this Hillman --
2 let's call this Hillman 1 for the record. The
3 exhibit is received.

4 MR. ERIC HILLMAN: Thank you.

5 I've listened to this testimony
6 throughout the day. I look back at the very first
7 CapX meeting that I went to approximately two years
8 ago and I know there was three proposals. One was
9 actually north of Fargo, between Fargo and Harwood,
10 the preferred one, which is the one that they're
11 going with, and the Wahpeton one. So you could have
12 saved a lot of time just going north of Fargo. But
13 I just want to be recognized that the city and its
14 residents are concerned with the placement that
15 close to our fine little community.

16 JUDGE WAHL: Does that conclude your
17 testimony?

18 MR. ERIC HILLMAN: Yep.

19 JUDGE WAHL: Ms. Agrimonti?

20 MS. AGRIMONTI: No questions, Your Honor.

21 JUDGE WAHL: Mr. Armstrong?

22 MR. ARMSTRONG: One second, please, Your
23 Honor.

24 EXAMINATION

25 BY MR. ARMSTRONG:

1 Q I just want to make sure I understand this exhibit
2 correctly. Is this on behalf of the City of
3 Mapleton?

4 A Yes.

5 Q Such that the commission voted and approved --

6 A We didn't -- there was no formal action taken. I
7 was asked by the city council to put together a
8 letter and give it to the Commission and to the
9 representatives from CapX.

10 Q The landowner -- just reading this letter, just so I
11 can understand it, the landowners where the
12 property -- where the lines are just to the west of
13 the city of Mapleton, it's my understanding from the
14 testimony earlier that it was going to be further
15 west of there and it was moved closer to the city at
16 the landowner's request. Is that -- was that your
17 understand --

18 A That's correct.

19 Q And is that your understanding of what you've --

20 A Yes.

21 Q -- heard in the town, too? Is it more acceptable to
22 the City of Mapleton if it is further west where it
23 was originally planned?

24 A Yes.

25 Q And is it still your understanding that those

1 landowners prefer it closer to Mapleton? The reason
2 I ask is this last sentence in the first paragraph
3 of your letter, I'm trying to understand what that
4 says. It's the City's understanding that the owners
5 of the land upon which the towers are proposed to be
6 constructed are not consenting to requests from Xcel
7 to consent to the issuance of a conditional use
8 permit. And how I read that anyway is the owners of
9 that property are objecting to the conditional use
10 permit?

11 A I believe that that statement refers to other
12 landowners than the ones we are particularly talking
13 to -- talking about.

14 Q Okay. So the landowners referred to in that
15 sentence aren't the landowners where the --

16 A Correct.

17 Q Okay.

18 A It's my understanding.

19 Q Right now does the City of Mapleton have any sort of
20 development plans, you know, finite development
21 plans for that area?

22 A Yes. It sits right -- if I can refer to these, is
23 that --

24 Q Yeah. They're Exhibit 2 and I believe it's on Map 7
25 and 8, is the golf course.

1 A 6 and 7. Okay. It would be 7 and 8. The original
2 proposed path of the towers were across the
3 interstate going north, was to continue straight
4 north along the half section line. The owners of
5 the property have asked that it be moved to the
6 section line, as I understand, for ease of farming
7 around.

8 If you look at Map 7, you can see very
9 clearly where the clubhouse sits for the Maple River
10 Golf Course. And that whole area around -- would be
11 right to the east of where that sits is inside of a
12 dike that was built a number of years ago and that
13 is being developed into residential homes.

14 MR. ARMSTRONG: That's all the questions
15 I have. Thank you.

16 MR. ERIC HILLMAN: Thank you.

17 JUDGE WAHL: Mr. Lein?

18 MR. LEIN: Just one.

19 EXAMINATION

20 BY MR. LEIN:

21 Q Did you say, then, that -- do they have a
22 conditional use permit pending before Mapleton?

23 A Yes, they have -- a few weeks ago they did send in a
24 permit with the fees. We have not approved it yet.

25 Q Okay. So the council just has not acted on it yet?

1 A Correct.

2 MR. LEIN: Okay. No further questions.

3 JUDGE WAHL: Commissioner Clark.

4 EXAMINATION

5 BY CHAIR CLARK:

6 Q Thank you for being here. I wanted to follow up on
7 something Mr. Lein had just asked with regard to
8 what eventually will be required of the City of
9 Mapleton. It would seem as though you have some
10 leverage in the situation if there's something they
11 have to ask you for.

12 A As they spoke earlier, the arms of the power lines
13 will be in the city limits of Mapleton. I don't
14 know if the towers are going to be built on the line
15 so half the tower is in Mapleton and half of it
16 isn't. Either way they will exist within Mapleton's
17 zoning permitting area.

18 Q Okay. Is that within the city limits or is it
19 within your extraterritorial --

20 A It is right on the line of the city limits.

21 Q Okay.

22 A You know, that line being the ET zoning and the city
23 limits.

24 Q Okay. Do you have any authority with it being in
25 the ET limits or does that not apply to a facility

1 like this?

2 A I can't honestly answer that question.

3 Q Okay. Looking at Map 8 of -- I forget the exhibit
4 number, it's --

5 JUDGE WAHL: 2.

6 BY MR. ARMSTRONG:

7 Q -- the one you were referring to. Exhibit 2. Do
8 you see on there the pole structure 955-27?

9 A Yes.

10 Q Do you have any -- I didn't think of this when the
11 company witness was up there, I didn't notice it,
12 but it's awfully close to the Maple River at that
13 point. Is there any -- has the city expressed any
14 concern with -- and maybe it's outside your limits,
15 you wouldn't necessarily do so, but would the
16 placement of that structure in relation to the Maple
17 River, it would seem like it's on the side of the
18 river bank that tends to erode as opposed to the
19 side that doesn't, or -- yeah --

20 A That is correct.

21 Q It's kind of the Oxbow there. Have you had any
22 discussions with them with regard to that?

23 A We have not. We have not been in contact with them
24 since their last meeting with us. I can't recall
25 exactly when that was. It was before this move was

1 made. The line used to go straight north there.

2 Q Right.

3 A Where they make that turn. The city has a number of
4 issues with the river right through town, not
5 speaking to this exactly, but we do have slumping
6 that occurs quite a bit in our city and we have to
7 address that fairly often. And I can see that being
8 a problem where that pole placement is.

9 Q Okay. Referring to Map 1 of Exhibit 3, which I
10 think you may have up there, it's -- the front page
11 looks like this. I don't know if that's up there or
12 not.

13 A I don't believe so.

14 Q If not, Mr. Simpser can give it to you.

15 A Thank you.

16 Q This is just a little bit bigger overview of the
17 area so it might be easier --

18 A Yep.

19 Q -- to take a look at. Where it takes that little
20 jog to the east, is Mapleton's preferred route to
21 simply have it go straight at that point along
22 the -- I guess it would be the half section line,
23 basically, run north to somewhere in, say, 35 or
24 between 35 and 26 or halfway up 35 and then cut
25 over?

1 A That would be a more desirable route, yes.

2 Q Okay. And during your discussions with the company,
3 have you had those discussions with the company that
4 that's your -- the city's preferred route and --

5 A I did bring it to their attention when they came to
6 our meeting two or three months ago.

7 Q Okay. And did you hear back from them and they
8 said, well, here's why we can't do it? I mean, was
9 there any --

10 A They stated at that point that they had been
11 petitioned by landowners that --

12 Q Okay.

13 A -- they wanted it to go on the section line and not
14 through the middle of a field.

15 Q Okay. So it was -- landowner concerns was the
16 response as opposed to there's some environmental
17 reason or cultural, historic --

18 A Correct.

19 Q -- I mean, something related to other than landowner
20 concerns?

21 CHAIR CLARK: Okay. That's all I have,
22 thanks.

23 JUDGE WAHL: Further questions from the
24 Commission?

25 Commissioner Kalk.

1 COMMISSIONER KALK: Just one quick one.

2 EXAMINATION

3 BY COMMISSIONER KALK:

4 Q Thank you for your testimony. You know, Tony's
5 point, you know, if you could have it go farther
6 west you would. But if, you know, what's the
7 minimum amount you'd like to see that line go to the
8 west? And understanding you have the permit in your
9 hand, too, so I think you can work that out, but if
10 you can't have it run straight north from the golf
11 course up, how far west would you like it to be?

12 A Looking at the aerial maps, and I understand you
13 can't be close to homes and stuff like that, so it
14 makes it difficult to draw that line. The further
15 west the better for me. I mean, these are big poles
16 and they're not pretty. And it's right in our, you
17 know --

18 Q Well, give me something I can work with. This is
19 preferable, two miles, but is there something
20 that --

21 A I would prefer at least one more mile further west.
22 Okay, from where it's at now it would be a mile and
23 a half further west, would be a minimum, but --

24 Q Okay. No, thank you.

25 A -- there's too many houses in the way for that.

1 JUDGE WAHL: Commissioner Clark.

2 FURTHER EXAMINATION

3 BY CHAIR CLARK:

4 Q And I guess that's my question following up. I
5 mean, you indicated there are other houses as you
6 get out that way which makes it tough to move it a
7 mile and a half. Which was why I was asking about
8 what about just a half a mile? I mean, does that
9 make any difference to the city, or not?

10 A If it were to go back to the original line --

11 Q Right.

12 A -- we would be much more satisfied.

13 CHAIR CLARK: Okay. Thank you.

14 JUDGE WAHL: Further questions from the
15 Commission?

16 Follow-up, Ms. Agrimonti?

17 MS. AGRIMONTI: No, thank you.

18 JUDGE WAHL: Mr. Armstrong?

19 MR. ARMSTRONG: No, Your Honor.

20 JUDGE WAHL: Mr. Lein?

21 MR. LEIN: No, Your Honor.

22 JUDGE WAHL: Thank you very much,
23 Mr. Hillman.

24 MR. ERIC HILLMAN: Thank you for
25 listening.

1 (Witness excused.)

2 JUDGE WAHL: May I have -- may I have a
3 show of hands how many yet to -- let's take a stand
4 up break of about ten minutes, is about all we can
5 spare.

6 (Break taken.)

7 JUDGE WAHL: Continuing then. Next, with
8 the next person who would address the Commission?

9 Please state your name for the record,
10 sir.

11 MR. TONY KOST: My name is Tony Kost.

12 JUDGE WAHL: Spell your last name,
13 please.

14 MR. TONY KOST: K-O-S-T.

15 JUDGE WAHL: T-O-S-T?

16 MR. TONY KOST: K-O-S-T.

17 JUDGE WAHL: I'm sorry. What is your
18 residence address, Mr. Kost?

19 MR. TONY KOST: 404 8th Street South in
20 Fargo.

21 JUDGE WAHL: Is that also your post
22 office address?

23 MR. TONY KOST: No, I have a post office
24 box, too, Box 10325, Fargo.

25 JUDGE WAHL: And are you representing any

1 organization or business entity?

2 MR. TONY KOST: Just our family
3 partnership.

4 JUDGE WAHL: That's fine. Mr. Kost, as
5 you heard me advise previous witnesses, your
6 testimony is required to be under oath and I'm
7 required by law to advise you regarding perjury
8 before administering the oath.

9 Perjury is a false statement of material
10 fact which you do not believe to be true. In North
11 Dakota perjury is a Class C felony, punishable by a
12 fine up to \$5,000, imprisonment for a period of up
13 to five years, or both.

14 If you'd raise your right hand, please.

15 Being advised regarding perjury,
16 Mr. Kost, do you swear that the testimony which
17 you're about to give in this matter shall be the
18 truth, the whole truth, and nothing but the truth?

19 MR. TONY KOST: I do.

20 JUDGE WAHL: You may proceed.

21 MR. TONY KOST: Five years ago my family
22 invested in a quarter section of land just west of
23 Fargo. And at the time that we bought it, we
24 researched it, and the -- it's west out in Addison
25 Township, and at the time we bought it we researched

1 it and -- and it met our criteria. And the reason
2 it did is because of the quality of the land, the
3 drainage of the land, and that it was a clean piece
4 of land. And by clean, it didn't have high lines.
5 We invest in quite a bit of land and we don't invest
6 in land that has high lines.

7 We do notice that a lot of the land that
8 comes up for sale is land that does have high lines
9 on it. It's repeatedly up for sale. And the land
10 that doesn't, doesn't come up for sale. Because it
11 was such a good, clean piece of land, we paid a lot
12 of money for it.

13 Now, the first that I heard about putting
14 high lines out there, a guy by the name of Ole
15 Olafson from Ultieg called me and told me that you
16 were thinking about putting some high lines out
17 there. And it's not a good call to get. I wish
18 that some of the people that work with the power
19 line companies could experience that.

20 You know, it's kind of nice just every
21 once in a while to drive out there and look at your
22 land. We rent it out, but, you know, it's a nice,
23 clean piece of property, we do a lot of developing,
24 but this happened to be a farmland investment. And
25 there's nothing that we can do about it. I mean,

1 you have eminent domain and we know it and I feel
2 that because of that we're a little taken advantage
3 of. And I think I'm probably speaking for a lot of
4 the people that this happens to. They offer to pay
5 us, you know, I would say a pittance to put the high
6 lines through it, it maybe pays for the right-of-way
7 on the land value, but I would gladly pay them a lot
8 more than that not to do it.

9 We won't keep the land. We can't sell it
10 now because we'd have to declare, you know, that
11 it's going to have high lines. And when we do sell
12 it, we'll sell it for a lot less than we could if it
13 didn't have high lines on it.

14 That's all I got to say.

15 JUDGE WAHL: Ms. Agrimonti?

16 MS. AGRIMONTI: Thank you, Mr. Kost. I
17 do not have any questions.

18 JUDGE WAHL: Mr. Armstrong?

19 EXAMINATION

20 BY MR. ARMSTRONG:

21 Q Mr. Kost, do you happen to have the legal of your
22 land?

23 A I do. We're in the northwest quarter 11 in Addison.
24 It's under the name Contractors Leasing.

25 Q Under the name what, excuse me?

1 A Contractors Leasing. The other thing I'd say is
2 that, you know, the first that I heard about this
3 was when we got a call from Ultieg and we didn't
4 know about this meeting today. You know, my
5 daughter just happened to see it in the legals of
6 the paper. Well, who reads the legals, you know.
7 And I probably should have come and said something
8 long before this but we didn't know anything about
9 it before this. And I know it's not going to have
10 an impact, but I feel better, so.

11 JUDGE WAHL: Mr. Armstrong?

12 MR. ARMSTRONG: I have no further
13 questions.

14 JUDGE WAHL: Mr. Lein?

15 MR. LEIN: No questions.

16 JUDGE WAHL: Questions from the
17 Commission?

18 Commissioner Clark.

19 CHAIR CLARK: (Inaudible - no mic) this
20 comes up every so often in our hearings, so I want
21 to speak a little bit to it.

22 But the issue of easement values, land
23 values, things like that that utility companies
24 offer, what they offer, is not directly under the
25 purview of the Public Service Commission. Those are

1 things, because they're ultimately something that
2 can become part of a -- (inaudible) strictly
3 (inaudible). So if eminent domain is used, the
4 Public Service Commission doesn't have power of
5 eminent domain, only courts have powers of that.

6 Which is why ultimately the courts have
7 any authority over the contracts between the
8 landowner and the -- private landowner and the
9 utility company would have with regard to the value
10 of easements. So it's -- we sometimes ask questions
11 about it because we're interested in the processes
12 that a utility company would go through when it
13 acquires easements (inaudible) actual authority over
14 what the terms of those contracts are, (inaudible)
15 that's really outside of the scope of the
16 Commission. Not that we care about what's going on,
17 because we do (inaudible). So, thank you.

18 JUDGE WAHL: Further questions from the
19 Commission?

20 If none, thank you, Tony, for your
21 testimony.

22 MR. TONY KOST: Thanks for listening.

23 COMMISSIONER KALK: And I'm glad it makes
24 you feel better, but it really doesn't matter.

25 JUDGE WAHL: Just a minute. One more.

1 We've got to close the loop here.

2 Ms. Agrimonti?

3 MS. AGRIMONTI: Thank you, Your Honor, no
4 questions.

5 JUDGE WAHL: Mr. Armstrong?

6 MR. ARMSTRONG: Nothing further.

7 JUDGE WAHL: Mr. Lein?

8 MR. LEIN: No questions, Your Honor.

9 JUDGE WAHL: Thank you very much,
10 Mr. Kost.

11 MR. TONY KOST: Thank you.

12 (Witness excused.)

13 JUDGE WAHL: Next, please?

14 Please state your name for the record.

15 MR. JIM HUESMAN: Jim Huesman.

16 JUDGE WAHL: How do you spell your last
17 name, Jim?

18 MR. JIM HUESMAN: H-U-E-S-M-A-N.

19 JUDGE WAHL: Huesman.

20 MR. JIM HUESMAN: Yes.

21 JUDGE WAHL: Mr. Huesman, what is your
22 residence address?

23 MR. JIM HUESMAN: 843 Main Avenue,
24 Hickson, North Dakota.

25 JUDGE WAHL: Is that also your post

1 office address?

2 MR. JIM HUESMAN: Yes.

3 JUDGE WAHL: And do you represent any
4 organization or business entity other than yourself?

5 MR. JIM HUESMAN: Just myself.

6 JUDGE WAHL: All right. Mr. Huesman, as
7 you heard me advise previous witnesses, your
8 testimony is required to be under oath and I'm
9 required by law to advise you regarding perjury
10 before administering the oath.

11 Perjury is a false statement of material
12 fact which you do not believe to be true. In North
13 Dakota perjury is a Class C felony, punishable by a
14 fine up to \$5,000, imprisonment for a period of up
15 to five years, or both.

16 Will you raise your right hand, please?

17 Being advised regarding perjury,
18 Mr. Huesman, do you swear that the testimony which
19 you're about to give in this matter shall be the
20 truth, the whole truth, and nothing but the truth?

21 MR. JIM HUESMAN: I do.

22 JUDGE WAHL: You may proceed.

23 MR. JIM HUESMAN: My main issue of
24 concern is the original alignment of the high line
25 wire going across the river roughly about four miles

1 north of the southern proposal now. And the issue
2 for the change being simply because of the
3 diversion.

4 And I guess my issue with that is the
5 reality is the southern diversion is putting it
6 within a half mile of roughly 200 homes. And the
7 only reason that you're moving it is for some
8 proposed diversion that is far from reality. And
9 even the people on the flood commission that are for
10 the diversion will agree that it's far from reality.

11 And it seems senseless to devise a plan
12 or even make changes to a plan that puts it closer
13 to a group of 200 homes over something that is not
14 reality. 'Cause the reality is those homes exist
15 and they're there right now and the diversion does
16 not, it's an idea.

17 And I guess that's my main concern, is
18 that let's not make a choice to change this plan on
19 something that isn't reality and put it on top of
20 people that are there. And I guess if the diversion
21 ever does become reality, let those that would
22 benefit from -- from this high line wire being
23 moved, let them pay the cost to move it into an
24 unaffected area that we would now be considered
25 under water. Let them, you know, at that time. But

1 it makes no sense to put it in our backyards when it
2 wouldn't need to be. And that's all I really have
3 to say on that, so.

4 JUDGE WAHL: Ms. Agrimonti?

5 MS. AGRIMONTI: Thank you, Mr. Huesman, I
6 have no questions.

7 JUDGE WAHL: Mr. Armstrong?

8 MR. ARMSTRONG: No questions.

9 JUDGE WAHL: Mr. Lein?

10 EXAMINATION

11 BY MR. LEIN:

12 Q Did you have property on the route?

13 A In the Bakke addition is where I live, yes.

14 Q And is there an address or legal description or
15 something?

16 A The one I gave there, 843 Main Avenue.

17 Q Okay. Gotcha.

18 MR. LEIN: Okay. No further questions,
19 thanks.

20 JUDGE WAHL: Questions from the
21 Commission?

22 Commissioner Clark.

23 CHAIR CLARK: No, but thank you for being
24 here.

25 COMMISSIONER CRAMER: Thank you for being

1 here, and just for everyone's benefit, the theme
2 of -- the theme that we keep hearing about, you
3 know, don't make a certainty based on a possibility
4 is pretty clear.

5 JUDGE WAHL: Commissioner Kalk.

6 COMMISSIONER KALK: Thank you for your
7 testimony. I just have one question.

8 EXAMINATION

9 BY COMMISSIONER KALK:

10 Q Did you get a chance to look at all about the route
11 way back when going down I-29 south of Wahpeton and,
12 if you did, any thoughts on that route?

13 A You know, I wasn't aware of that route. I really
14 became aware of the whole situation once it kind of
15 was put in our backyard.

16 COMMISSIONER KALK: Okay. Thank you.

17 JUDGE WAHL: Follow-up, Ms. Agrimonti?

18 MS. AGRIMONTI: No, Your Honor.

19 JUDGE WAHL: Mr. Armstrong?

20 MR. ARMSTRONG: No, Your Honor.

21 JUDGE WAHL: Mr. Lein?

22 MR. LEIN: No, Your Honor.

23 JUDGE WAHL: Thank you very much,

24 Mr. Huesman.

25 MR. JIM HUESMAN: Thank you.

1 (Witness excused.)

2 JUDGE WAHL: Anyone else? Please come
3 forward.

4 Please state your name for the record.

5 MS. KRISTI HOUSKA: Kristi Houska.

6 JUDGE WAHL: Kristi is spelled?

7 MS. KRISTI HOUSKA: The last -- Kristi is
8 K-R-I-S-T-I.

9 JUDGE WAHL: And your last name, please?

10 MS. KRISTI HOUSKA: Houska is
11 H-O-U-S-K-A.

12 JUDGE WAHL: Houska?

13 MS. KRISTI HOUSKA: Houska.

14 JUDGE WAHL: Houska.

15 MS. KRISTI HOUSKA: Yeah. You got to
16 blame my husband for that one.

17 JUDGE WAHL: Yeah, I understand.

18 As you heard me advise previous
19 witnesses, your testimony is required to be under
20 oath and I'm required by law to advise you regarding
21 perjury before administering the oath.

22 Perjury is a false statement of material
23 fact which you do not believe to be true. In North
24 Dakota perjury is a Class C felony, punishable by a
25 fine up to \$5,000, imprisonment for a period of up

1 to five years, or both.

2 Will you raise your right hand, please?

3 Being advised regarding perjury, do you
4 swear that the testimony which you're about to give
5 in this matter shall be the truth, the whole truth,
6 and nothing but the truth.

7 MS. KRISTI HOUSKA: I do.

8 JUDGE WAHL: You may proceed.

9 MS. KRISTI HOUSKA: My name is Kristi
10 Houska and I live in the Bakke subdivision. And I
11 am on the back end right where the power lines will
12 be placed, directly behind us.

13 And one of my major and priority concerns
14 right now, as I see in Exhibit 1 that was given, on
15 page 6-5, it's the very last item under the impact
16 upon, number 6, labeled Human Health and Safety.
17 Under the proposed route section it says no
18 significant impacts associated with human health and
19 safety considerations are anticipated within the
20 proposed route and Bison substation siting area.

21 I just want to make the Commission aware
22 that we have two bus loads that come out of the
23 Kindred School District that come out of those
24 areas. Bus loads of children. And we live right in
25 that Bakke subdivision that is about a half a mile,

1 less than a half a mile away, right in our backyard
2 in the field.

3 And I am -- I don't care if it says no
4 significant impacts, if there's any health impacts
5 whatsoever and my children are associated with that,
6 I don't want that. Especially when it has a
7 possibility to go in that northern alignment where
8 it is in the middle of a field and there is no homes
9 whatsoever at this time. And that is in right now
10 the natural floodplain where no homes should be
11 built right now to begin with.

12 We are already an established community
13 and we have these children that are out there.
14 There is a back road that leads out of our
15 development that is used for recreational purposes
16 and those high lines are going to go right over that
17 road. This road is used for walking, running, and
18 for our kids to ride their bikes on. They take
19 their four wheelers down there. This is strictly
20 used for all recreational purposes. And I have read
21 up on what some of these power lines have the
22 capability of doing and it makes me sick to my
23 stomach to think what they have caused that have
24 been associated with them. And I would not
25 appreciate those going in. And it's a moral issue.

1 Especially when you're talking that many children
2 that are out there.

3 Also, has there been thoughts of when,
4 like just last summer we had this huge straight wind
5 storm that went through by Kindred and it took down
6 steel power lines and snapped them right in half.
7 How is the maintenance going to be performed on
8 these power lines when there is ten feet of water if
9 there needs to be maintenance done on them out in
10 that area?

11 If this proposed diversion goes through,
12 and like everyone else, that's the term I'm using,
13 this is a proposed diversion. It's not in
14 actuality, there's been no funding done on it, and
15 to go ahead and put another project dependent on
16 that, just like that letter from Walaker, he used
17 the exact same wording as what was used in this
18 document, anticipated. And that is not a -- it's
19 not a for sure, a for sure thing.

20 And, basically, that's what I have to say
21 in regards to these power lines.

22 JUDGE WAHL: Ms. Agrimonti?

23 MS. AGRIMONTI: Thank you, Your Honor. I
24 have no questions.

25 JUDGE WAHL: Mr. Armstrong?

1 EXAMINATION

2 BY MR. ARMSTRONG:

3 Q Ms. Houska, from the other witnesses, I think
4 Mr. Bice and Mr. Huesman said they were in the Bakke
5 subdivision, too; is that correct?

6 A Mr. Huesman -- yes, they are. Um-hum.

7 Q And --

8 A I would be the one closest, though, to the power
9 lines, out of all three.

10 Q And how far away are you from the proposed location?

11 A I am -- back right up against it. I'm on Plum Tree
12 Road. I am the third road in, closest.

13 Q I'm just wondering if you could maybe show us on the
14 map?

15 A Sure.

16 Q On these maps, if you can. How close are you to
17 Mr. Bice?

18 A Mike Bice is on the first road, I'm on the third.
19 Where did he circle his?

20 Q His didn't show on these smaller maps, I'm wondering
21 if yours does.

22 A That's Oxbow. I'm not exactly -- I'm just right
23 across Highway 81.

24 Q Right across Highway 81?

25 A Yep, I'm on the north side of Highway 81.

1 Q So Highway 81, so it would be off of these maps?

2 A Yes. We're around the curve yet.

3 MR. ARMSTRONG: I think I'll just rely on
4 Mr. Bice's map for where the Bakke Township is, I
5 think we can find it from there. I have no further
6 questions.

7 JUDGE WAHL: Mr. Lein?

8 MR. LEIN: No questions.

9 JUDGE WAHL: Questions from the
10 Commission?

11 Commissioner Kalk.

12 EXAMINATION

13 BY COMMISSIONER KALK:

14 Q Thank you for taking time to testify today. I
15 understand your concerns about if the power line is
16 built. Do you have any, if it's approved, special
17 concerns during construction of the power line that
18 would need to be addressed?

19 A Well, the noise factor, for one. Also, it's taking
20 place in a field. There's chemicals that are in the
21 field, that's stirring up all of those particles.
22 Also, I guess, once the power lines are constructed,
23 just what I've heard of the medical problems
24 associated with them as well. That's something that
25 I don't think anyone wants associated -- of their

1 children even to be close by, let alone yourself.

2 And especially when that road runs right underneath
3 those. I have a really hard time with that.

4 Q Okay. So that road the kids use a lot, people use a
5 lot, so during the construction phase that road will
6 probably have to be closed down?

7 A Yeah, 'cause it runs right over the top of it.

8 Q Okay.

9 A And it's utilized quite a bit, you know, they take
10 snowmobiles down it, everything. Yeah, Oxbow people
11 come over and use it when they go running and --

12 COMMISSIONER KALK: Okay. Thank you.

13 JUDGE WAHL: Further questions from the
14 Commission?

15 COMMISSIONER CRAMER: Just thank you very
16 much.

17 JUDGE WAHL: Ms. Agrimonti?

18 MS. AGRIMONTI: No questions, Your Honor.

19 JUDGE WAHL: Mr. Armstrong?

20 MR. ARMSTRONG: No questions.

21 JUDGE WAHL: Mr. Lein?

22 MR. LEIN: Nothing.

23 JUDGE WAHL: Thank you very much,

24 Ms. Houska.

25 MS. KRISTI HOUSKA: Thank you.

1 (Witness excused.)

2 JUDGE WAHL: Anyone else?

3 Please state your name for the record.

4 MR. MARK RICHARD: Mark Richard.

5 JUDGE WAHL: R-I-C-H-A-R-D?

6 MR. MARK RICHARD: Correct.

7 JUDGE WAHL: No S?

8 MR. MARK RICHARD: Correct.

9 JUDGE WAHL: What is your residence
10 address, Mr. Richard?

11 MR. MARK RICHARD: 17107 50th Street
12 Southeast, Horace.

13 JUDGE WAHL: Is that also your post
14 office address?

15 MR. MARK RICHARD: Yes, it is.

16 JUDGE WAHL: Are you representing anyone
17 other than yourself, such as an organization or a
18 business entity?

19 MR. MARK RICHARD: Just myself, I'm a
20 farmer.

21 JUDGE WAHL: All right. Mr. Richard, as
22 you have heard me advise previous witnesses, your
23 testimony is required to be under oath and I'm
24 required by law to advise you regarding perjury
25 before administering the oath.

1 Perjury is a false statement of material
2 fact which you do not believe to be true. In North
3 Dakota perjury is a Class C felony, punishable by a
4 fine up to \$5,000, imprisonment for a period of up
5 to five years, or both.

6 Will you raise your right hand please?

7 Being advised regarding perjury,

8 Mr. Richard, do you swear that the testimony which
9 you're about to give in this matter shall be the
10 truth, the whole truth, and nothing but the truth?

11 MR. MARK RICHARD: I do.

12 JUDGE WAHL: You may proceed.

13 MR. MARK RICHARD: I guess, hearing some
14 of the testimony this morning, it was stated that
15 there is a large percentage of the landowners who
16 have signed or pending. I guess to me that's two
17 distinctly different things. And I don't know why
18 those are lumped together. Because I'm not a
19 landowner, but my father is part of the landowners
20 who were getting easements, I have a feeling he is
21 lumped into the pending ones, but he is far from
22 signing. So I guess to me I would like to know what
23 that distinction is, what the percentages is. I
24 know you guys are getting more documents or so, but
25 to me I think they should be lumped into two

1 different categories.

2 There's been also a lot of talk that the
3 company would rather have the farther north
4 location, the farther north into Fargo the better it
5 is for fuel. Has anybody ever looked about keeping
6 the power line going along I-94 like it does in
7 Minnesota so that you don't have to deal with some
8 of these other issues and run just along the
9 interstates where they already have corridors?

10 Another comment. In the CapX literature
11 it states that the route was developed with a lot of
12 public input. I guess from our aspect we have had
13 very little public input. The input, we've been to
14 meetings that they've had out and stuff, input is
15 always here is what it is going to be. We have not
16 had, okay, this road here is a minimum maintenance
17 dirt road, if you go down that road there are no
18 dwellings to deal with. Instead they're fishing
19 through houses and farmsteads that are within a
20 quarter a mile apart, they're feeding through those
21 farmsteads, why, if they were a mile south, there
22 was nothing to deal with.

23 The other issue we have is we've been
24 going back and forth with them about the easements.
25 Their easements are very general. It does not limit

1 them to just this project. We've been trying to get
2 them to add that in there and they're reluctant to
3 add that in there so it's an open-ended easement
4 that let's them go do other things down the road and
5 their response to us is, well, at some point you
6 just got to trust, this is what our project is and
7 that. But we want to make sure that this does not
8 lead to other things down the road.

9 Their easement allows them to do
10 underground transmission lines. It limits us on
11 what we can do to our property. If we want to add
12 field drainage tiles we have to have written
13 permission from them to allow us to do that. And
14 the way the water situation is, as you guys have
15 heard many times, if this farmland has got a chance
16 to be farmed after a diversion, it's probably going
17 to all have to be tiled. And we're going to have to
18 get written letters and stuff and I don't know how
19 that process will work and why we should be limited
20 to do that.

21 The other thing is, we've been hearing
22 stories from other landlords and everything else,
23 that they've been basically being pressured, being
24 told that they have eminent domain, it is coming
25 through, you better sign it, here it is, do it now

1 or you'll be in court.

2 To me I don't think that's the way that
3 we should be running these things. We should be
4 running through the process. It would be nice to
5 have a process to have a lot more public input than
6 waiting till these hearings like this. There are
7 many people who have grown up in these areas, you
8 can sit down with maps and route down better maps
9 than they've come up with here.

10 So I guess that's what I've had to say.
11 I just don't want to be on the end of multiple
12 projects, everybody wants it not in my backyard, but
13 it seems like everything is going in my backyard,
14 not just these projects.

15 JUDGE WAHL: Ms. Agrimonti?

16 MS. AGRIMONTI: Thank you, I have no
17 questions.

18 JUDGE WAHL: Mr. Armstrong?

19 MR. ARMSTRONG: No questions.

20 JUDGE WAHL: Mr. Lein?

21 MR. LEIN: No questions, Your Honor.

22 JUDGE WAHL: Questions from the
23 Commission?

24 Commissioner Kalk.

25 EXAMINATION

1 BY COMMISSIONER KALK:

2 Q Did we get a good exact location of where we're
3 talking about here? Okay.

4 A It's on there, it's section 9 of Pleasant Township.

5 Q Okay.

6 CHAIR CLARK: I thank you for bringing up
7 the issue of signed versus pending, though. I was
8 thinking the same thing here and I didn't ask it,
9 but maybe I will.

10 MR. MARK RICHARD: I would -- and is
11 there a way for us to find that information
12 afterwards? I would like to know how many are
13 actually signed versus are pending.

14 CHAIR CLARK: That's a fair question,
15 thank you.

16 MR. MARK RICHARD: Can we go to the
17 Commission website and find that out? Where does
18 that get published?

19 CHAIR CLARK: Well, it wouldn't be on the
20 Commission website.

21 COMMISSIONER KALK: Once something is
22 filed with us it's public record.

23 CHAIR CLARK: Yeah, and any exhibit is
24 public record.

25 MR. MARK RICHARD: So all the exhibits

1 are under -- will be found on the website?

2 JUDGE WAHL: Everything that's -- all of
3 the exhibits and all of the information that is
4 submitted to the Commission, whether or not to the
5 Commissioners individually, to the Commission and
6 that is used by the Commission becomes a public
7 record.

8 Indeed, you can check the Commission's --
9 those of you who are interested, can look at the
10 Commission's website and check their calendar and
11 you'll see what's called a work session scheduled
12 for this case. And you can, if you have the
13 opportunity, that will be streamed over the Internet
14 and you can listen to the Commissioners and staff
15 discussing this case.

16 COMMISSIONER KALK: Your Honor, if I
17 could? Just a -- 328-2400 is always our number, but
18 don't we have a late-filed exhibit coming in on
19 this? Didn't we -- wasn't there an earlier
20 question --

21 JUDGE WAHL: We've got a couple
22 late-filed exhibits.

23 COMMISSIONER KALK: Okay. All right.
24 There's something --

25 MS. AGRIMONTI: There's one -- I'm sorry.

1 JUDGE WAHL: But they'll be available,
2 Commissioner, as soon as they're docketed.

3 Any further questions from the
4 Commission?

5 MR. MARK RICHARD: Thank you very much.

6 JUDGE WAHL: Ms. Agrimonti?

7 MS. AGRIMONTI: Your Honor, I simply
8 wanted to clarify that the map of easements that
9 have been requested that be part of late-filed
10 Exhibit 29, we anticipated that we would have at
11 least three categories of information on there.
12 Options signed, access granted, and then pending
13 data as well. So all of that information will be
14 available on that exhibit that I think is being
15 requested now.

16 JUDGE WAHL: Give me just a moment,
17 please. I'm not sure I described the exhibit that
18 way. You know, I really didn't. So the map is
19 going to show, Ms. Agrimonti, signed, pending --

20 MS. AGRIMONTI: Signed agreements --
21 signed, access but not signed, and then pending.

22 JUDGE WAHL: What does access but not
23 signed mean?

24 MS. AGRIMONTI: As part of the Class III
25 evaluation there were access agreements entered into

1 with some landowners who had not also signed
2 options.

3 JUDGE WAHL: All right. Let me -- give
4 me just a moment, please, now.

5 Well, I may change my mind again, but,
6 counsel, I'll send you this further continuation of
7 the exhibit list before I file it. But I think
8 this, then, Exhibit 29 will be described as map
9 showing signed consents, access, or consent to
10 access but not signed, and consent -- or -- yeah,
11 consents not signed?

12 MS. AGRIMONTI: The third category would
13 be pending, those that we anticipate on closing a
14 deal with in the near term. And then my further
15 understanding is this all would be on a to-scale map
16 so that --

17 JUDGE WAHL: Right. It's a map.

18 MS. AGRIMONTI: -- mileage would be shown
19 as well.

20 JUDGE WAHL: So, but, in effect, pending
21 means not signed?

22 MS. AGRIMONTI: Yes.

23 JUDGE WAHL: You know, that's the
24 difficulty with this word. You know, pending to me,
25 when I've got something pending, I mean, it's a done

1 deal except it's something that maybe it's not
2 signed or it's not been received or whatever. I
3 don't -- if that's the way you want to describe it,
4 that's your choice, but I want to be clear that what
5 pending means is that it's -- you don't have
6 consent.

7 MS. AGRIMONTI: You know what, Your
8 Honor, I think there was a fourth category that I
9 wasn't listing that you captured right off the
10 start. There will be a list of -- or a category of
11 landowners to which no agreement has been reached.
12 And, you know what, let me stick with that category
13 instead, and if we want to add a note somewhere
14 about some that we believe are close to being
15 papered, so that the three categories would be
16 signed, access only, and unsigned.

17 JUDGE WAHL: You know, I like that the
18 best.

19 MS. AGRIMONTI: Thank you for helping me
20 work through it. Understanding that access only is
21 also an unsigned.

22 JUDGE WAHL: No, and I understand that,
23 too, but it's a point. Well, we'll put this
24 together and before I file the exhibit list I will
25 send counsel the way I have it and we can discuss

1 any if it's not quite right.

2 MS. AGRIMONTI: Thank you.

3 JUDGE WAHL: All right. I'm not sure
4 where I was. Mr. Armstrong.

5 MR. ARMSTRONG: I have no objection to
6 the change of the exhibit, if that's where we're at.
7 I have no further questions.

8 JUDGE WAHL: No, my question is whether
9 you have any further questions.

10 MR. ARMSTRONG: No questions.

11 JUDGE WAHL: Mr. Lein?

12 MR. LEIN: No questions.

13 JUDGE WAHL: All right. Now we're in
14 business.

15 Thank you very much, Mr. Richard.

16 MR. MARK RICHARD: Thank you.

17 (Witness excused.)

18 JUDGE WAHL: Anyone else who wishes to
19 address the Commission? Anyone else?

20 Ms. Agrimonti, rebuttal?

21 MS. AGRIMONTI: Your Honor,
22 Commissioners, I have no specific rebuttal, but
23 there may be some lingering questions that --

24 JUDGE WAHL: There may be.

25 MS. AGRIMONTI: -- I'd like to make

1 Mr. Lahr available for those at this time.

2 JUDGE WAHL: Mr. Lahr, if you would
3 please. I should have asked before I asked you to
4 come forward, but I suspect there are some questions
5 yet.

6 Mr. Lahr, you understand, of course, that
7 your testimony continues under oath and subject to
8 penalties of perjury?

9 MR. LAHR: I understand.

10 JUDGE WAHL: Let's begin with the
11 Commission. Questions from the Commission?
12 Commissioner Clark.

13 DARRIN LAHR

14 FURTHER EXAMINATION

15 BY CHAIR CLARK:

16 Q Sure. Thanks for coming back up. There was a good
17 deal of discussion in the public testimony that we
18 received regarding the original -- I'll call it the
19 northern route, and you discussed it a bit during
20 your original testimony. But the primary reason for
21 dropping the northern route, was it simply
22 opposition of governments being related to being on
23 the dry side of the diversion or were there other
24 factors involved with that decision?

25 A I will try to be more clear this time around. When

1 we held our open houses and our local government
2 meetings throughout the course of this project, we
3 would get a lot of feedback from individuals, some
4 being township officials, some not.

5 When the whole diversion topic became a
6 topic, when it became an issue, there was a very,
7 very strong sentiment from the majority of the
8 people that we talked to that it didn't make sense
9 to consume land that was going to be protected with
10 a transmission line. And that was a -- something
11 that we, as the project, took to heart as we looked
12 at our routing to see if that was something that we
13 could accommodate. We understood the concern, and
14 we think that the distance that we are at currently
15 south of the diversion works. But we had a lot of
16 feedback that south is better.

17 Q Sure. I guess the direct question that we're trying
18 to get at is there's a sense from some of the
19 landowners and residents that we heard today that it
20 may be a case that it's one government, the City of
21 Fargo, and they happen to be the one where we've got
22 some evidence in the record where they submitted
23 information to the Commission for consideration.

24 That here's a project that's outside the
25 city limits, it's outside the city extraterritorial

1 area. Should the question be, you know, what say
2 should they really have? I mean, they might have a
3 preference, but would that be any greater weight or
4 less weight than other folks in the county? And I'm
5 wondering if there was just other feedback beyond
6 just the City of Fargo weighing in? Was there
7 counties, townships? You'd mentioned there are
8 other landowners who didn't want it?

9 A In my answer to your question I wasn't even counting
10 the City of Fargo.

11 Q Okay.

12 A The City of Fargo has, you know, weighed in on the
13 project periodically. But it really wasn't the City
14 of Fargo we were talking to. These were the local
15 governments, the landowners that were down in those
16 areas and the towns that were down in those areas.
17 So we weren't talking to Fargo officials.

18 Q Are there advantages to a northern route that are
19 lost by pushing it further south? In other words,
20 was there some sort of trade-off? I mean, you'd
21 mentioned at a certain point voltage has become an
22 issue if you drive it too far south. I'm wondering
23 if there were other -- I mean, originally you
24 selected that route for some reason. So what are
25 the things that you're losing by moving it further

1 to the south?

2 A You do lose some of that support that Mr. Kline
3 spoke to earlier as far as the strength of the
4 system on the south end. I don't believe -- well, I
5 should let Mr. Kline answer this. I don't believe
6 it's significant enough to move away from that.

7 The other thing is, the further north you
8 go, as well as the further east you go with the two
9 legs of this project, the closer you get to
10 developable land, more population center, more
11 people, more houses. So in many ways it put us out
12 into a less dense area with the new location versus
13 where it was before. And I think that is actually a
14 benefit to the project. We lose a little bit on the
15 system side.

16 Q Okay. Could we talk a little bit about some of the
17 testimony that we received in specific areas? One
18 would be the testimony of Mr. Kraft related to the
19 private runway. And have you had direct work with
20 Mr. Kraft, or can you talk a little bit about why
21 that specific area as opposed to a little bit
22 further west wouldn't be feasible, in your opinion?
23 Or would it be feasible?

24 A I wouldn't say it's not feasible. It is feasible to
25 move a little bit further west. As I mentioned in

1 my original testimony, it's a mix of trade-offs.
2 Depending upon where we would make that cutoff, and
3 I think in your questioning you're driving to sort
4 of a half section crossing as opposed to pushing it
5 all the way down towards the landowner in sort of
6 the southwest corner there, maybe something like
7 that is an answer to that situation.

8 Our current location, where we're at, we
9 can put shorter poles in or ensure that they're
10 below the 150-foot mark, it's certainly something we
11 do with other airports and things around, even
12 though this isn't a public airport, with addition to
13 marking the line to make it more visible. I think
14 there's opportunities to work through the situation
15 that we have there that we just haven't quite got to
16 yet.

17 Q Yeah. Sounded like the idea of the half section,
18 though, you still have the issue with the landing
19 arc itself, you're still kind of in the same spot
20 with regard to that, it sounded like?

21 A I mean, it is, at the end of the day, I apologize
22 for sounding like a broken record, but it's a mix of
23 trade-offs. You know, which sets of impacts are
24 acceptable and appropriate for a facility like this.
25 Is it residential? Is it an airport?

1 Q Moving to discussions regarding Mapleton. A couple
2 of issues there. I mean, apparently you received
3 some landowner concerns with having a little bit
4 further westward route which pushed it closer to
5 Mapleton. Now we have the city which says that it
6 doesn't like where you put it. Talk about a
7 possible accommodation there.

8 A There's a couple of ways to look at this. When we
9 went out and talked to the landowners in that area
10 they didn't like the middle of the section as far as
11 the farming impacts. They preferred it to be more
12 on the section line, the statutory roadway areas.
13 And as we looked at that from an impact standpoint,
14 other than the proximity to the city of Mapleton
15 there's not a large impact.

16 Now, to solve that, you know, how do you
17 best do that? Well, currently we could look at some
18 offset from the City of Mapleton to put it in a
19 position where a conditional use permit would not be
20 necessary from the city. The distance of that
21 offset from the city boundary is not clear to me at
22 this point as to what would be deemed appropriate.
23 Clearly the City of Mapleton would like it as far as
24 they can west from its current location. At the
25 same time, it could be moved just far enough to pull

1 the arms and the easement out of the city limits and
2 anywhere in between there. That's where I mentioned
3 that this -- these become very personal decisions
4 with the landowners affected.

5 Q I guess the question becomes, it looks like that it
6 runs down half section lines for basically the whole
7 route. Or at least a large chunk of it. And it
8 would seem like if you've got the city on one hand
9 versus landowners on the other, and you've set the
10 standard that the half section seems fine, I guess
11 I'm just trying to feel out why, from a Commission
12 position, if we -- from a PSC position, if we've got
13 testimony that says we've got an entire city that's
14 opposed to it, where it is, I mean, it at least
15 gives me pause.

16 A Understandable. I have to think about the impacts
17 of the line. The real impacts of the line in a
18 situation like this, where you're at the
19 extraterrestorial boundary -- or extraterritorial
20 boundary, excuse me. Depending. And what are the
21 true impacts of a facility like this. And I think
22 maybe that's what the Commission has to look at in
23 these areas. Or really what are the impacts of a
24 transmission line?

25 It is not an attractive piece of

1 infrastructure, we understand that, but clearly from
2 a health and safety standpoint there are not issues
3 with transmission facilities. Clearly we have
4 transmission facilities in the middle of cities,
5 there's many in cities today where, you know, houses
6 and buildings and apartments and playgrounds and
7 everything are right up against them and, you know,
8 there's children's playgrounds underneath the lines
9 in the right-of-way. Perfectly appropriate use. Is
10 it a reasonable position to say that the extra edge
11 or the outside edge of the city is too close in a
12 city like that? And I don't know that I can answer
13 that directly for you.

14 Q Okay. Oh, and then specifically with regard to that
15 one structure that I had asked about that looks like
16 it's very close to the Maple River bank. Are you
17 familiar with that?

18 A I'm familiar with that corner. What is indicated in
19 that dot is probably a little deceiving in the fact
20 that at the end of the day there will be two poles
21 there. It will probably have to be pulled a little
22 bit further away from that bank. But these
23 foundations are going to be extremely deep for these
24 facilities, there's a potential that that foundation
25 could be a pile-capped foundation once we have the

1 geotechnical information on it. So there might be
2 potential for pole tweaks in something like that
3 that we would have to run through the plan and
4 profile process.

5 CHAIR CLARK: Okay. That's all I've got.
6 Thank you.

7 MR. LAHR: Thank you, Commissioner.

8 JUDGE WAHL: Further questions from the
9 Commission?

10 Commissioner Kalk.

11 COMMISSIONER KALK: Just a couple.

12 FURTHER EXAMINATION

13 BY COMMISSIONER KALK:

14 Q Thank you for coming back up.

15 A You bet.

16 Q The -- did you talk to -- or who did, the Cass
17 County commissioners at all?

18 A We've seen Cass County commissioners at our open
19 houses that we've had and, you know, I was not a
20 part of it, but a member of our team did go to a
21 Cass County meeting to address the board.

22 Q So have they weighed in, to your knowledge, on this?
23 So we've got a letter from Mayor Walaker, but I
24 don't recall anything from the Cass County
25 commission saying one way or the other.

1 A I don't know that we've received a letter of support
2 or not from them. We've gone through the permitting
3 process, as far as the county permits needed for
4 roadways and things like that, but we haven't sought
5 out a resolution of support from the --

6 Q I wish I would have thought of that question earlier
7 for the witnesses that came up and talked about it,
8 if they talked to the county commissioners, but
9 we'll get to that, I guess.

10 There was some concern about safety, and
11 I'm not talking so much about the electromagnetic
12 part of it, just the safety during construction.
13 What do you do during construction in areas where
14 there are kids, where there are sensitive areas, to
15 make sure it's done safely? Access control, those
16 kind of things?

17 A I think the big things that we do have to do is with
18 the training of the crews that we have associated
19 with this. Before we start projects like this, when
20 we sit down with the crews we talk about the areas
21 that we're going to be in. Whether that's
22 environmental issues, what the neighbors are, if
23 there's noise concerns. So there's a stage setting,
24 if you will, that happens for each segment of the
25 project to be able to understand what the impacts

1 are in this area. Because they do vary by area and
2 you have different conditions that we need to do in
3 a rural area on a township road versus something if
4 there's a neighborhood nearby. We also would talk
5 with the local officials, whichever that is, to
6 discuss sort of access routes. Are there certain
7 roads that we should be using that route us away
8 from certain areas that are more or less --

9 Q So is there a project coordinator assigned for this
10 project that's going to be actually boots on the
11 ground, if you will, doing these kind of things?

12 A Yes, absolutely.

13 Q And who is that?

14 A That has not been named as of yet.

15 Q Okay. There was one of the individuals who brought
16 up running it right down I-94 through Fargo. That's
17 what Minnesota is doing on most of their route. Is
18 there a particular reason why we couldn't go
19 right -- go south out of the substation once we hit
20 94 in Mapleton to just run it right down the
21 interstate?

22 A There's not adequate right-of-way in and through
23 that area to be able to have a clean path to
24 actually run through there. And in Minnesota where
25 the route does get tight, it actually breaks away

1 from the interstate in almost every circumstance.
2 So there's several deviations from the freeway to
3 avoid certain things, whether they be population
4 centers, neighborhoods, housing districts, lakes,
5 things like that. So from a routing standpoint it's
6 just not very feasible.

7 Q Okay. Thank you.

8 A Thank you.

9 JUDGE WAHL: Further questions from the
10 Commission?

11 COMMISSIONER KALK: None, thank you.

12 MR. LAHR: Thank you.

13 JUDGE WAHL: Follow-up, Mr. Armstrong?

14 MR. ARMSTRONG: Yes, Judge.

15 FURTHER EXAMINATION

16 BY MR. ARMSTRONG:

17 Q Is that southern substation, is that in the
18 diversion area? One of the witnesses mentioned
19 that.

20 A Dan Kline had mentioned that. I believe it would be
21 on the dry side of the diversion.

22 Q And I guess this question kind of -- you know, we've
23 had some testimony about some -- and you've talked
24 about it with Mapleton and with the airport, or the
25 private landing strip, and I don't even -- if it's

1 possible, if it's even possible if we could put
2 together a late-filed exhibit of options to address
3 those areas or not, or if the Commission wants it
4 or, you know, something for the record of possible
5 options around some of those areas, if that can even
6 be put together. I don't know if the Commission
7 would want that as part of the record or not.

8 MS. AGRIMONTI: As a late-filed exhibit,
9 particularly with the Kraft area, as well as
10 Mapleton, and update the Commission on those options
11 at a later time, I don't know what timing might be
12 most appropriate, but we could certainly talk about
13 that.

14 MR. ARMSTRONG: It would be late-filed --
15 what are we at, 32?

16 JUDGE WAHL: 32, if you must. So what is
17 the -- so what is -- give me a description, please,
18 Mr. Armstrong. Or maybe I should go to
19 Ms. Agrimonti. What are you offering? Maybe that
20 works.

21 MS. AGRIMONTI: I would break it into
22 two, Your Honor.

23 JUDGE WAHL: Two late-filed exhibits?

24 MS. AGRIMONTI: Yes.

25 JUDGE WAHL: Of course.

1 MS. AGRIMONTI: At the risk of being too
2 numerous.

3 JUDGE WAHL: All right.

4 MS. AGRIMONTI: Exhibit Number 32 would
5 be an assessment of mitigation options for the Kraft
6 airport.

7 JUDGE WAHL: All right. Now just stop,
8 please.

9 All right. And then 33?

10 MS. AGRIMONTI: 33 would be routing
11 options on the boundary of Mapleton.

12 JUDGE WAHL: All right. Mr. Armstrong,
13 is that acceptable to you?

14 MR. ARMSTRONG: Yes.

15 JUDGE WAHL: All right. For the record,
16 Exhibit 32, assessment of mitigation options for
17 Kraft airport, and Exhibit 33, routing options on
18 the boundary of Mapleton, are each received as
19 late-filed exhibits.

20 Mr. Armstrong, anything further?

21 MR. ARMSTRONG: Nothing further.

22 JUDGE WAHL: Mr. Lein?

23 MR. LEIN: Nothing, Your Honor.

24 JUDGE WAHL: Follow-up questions from the
25 Commission?

1 If not, thank you very much, Mr. Lahr.

2 MR. LAHR: Thank you.

3 JUDGE WAHL: Ms. Agrimonti, closing
4 statement? Anything further?

5 MS. AGRIMONTI: No, Your Honor, I have
6 nothing further.

7 JUDGE WAHL: All right. And
8 Mr. Armstrong, certainly I assume no closing
9 statement, nothing further?

10 MR. ARMSTRONG: You assume correctly.

11 JUDGE WAHL: That being said -- by the
12 way, I assume counsel will deal with proposed
13 findings of fact, conclusions of law and order in
14 due course. And otherwise, as I said, I will
15 provide counsel a copy of the exhibit list before I
16 file it. And that being said, anything further for
17 the record, Ms. Agrimonti?

18 MS. AGRIMONTI: No. I thank you for your
19 time today.

20 JUDGE WAHL: And Mr. Armstrong --

21 MR. ARMSTRONG: Nothing further.

22 JUDGE WAHL: -- anything further for the
23 record?

24 All right. The hearing in the matter of
25 Northern States Power Company and the Fargo -

1 St. Cloud, Minnesota 345 kilovolt CapX transmission
2 line siting application, Public Service Commission
3 case number PU-07-759, is closed, subject to filing
4 of late-filed exhibits.

5 Oh, I didn't -- I'm sorry. I was on a
6 roll. Really? No, by all means, I'm sorry, I
7 overlooked, I was busy focusing on the clock rather
8 than on my job.

9 With that being said, closing statements
10 from the Commission?

11 Commissioner Clark, by all means. This
12 hearing --

13 CHAIR CLARK: That may be a hint.

14 JUDGE WAHL: This hearing deserves
15 closing statements.

16 CHAIR CLARK: He's got an appointment
17 back in Bismarck he wants us to get to.

18 Thanks everybody for being here. We
19 obviously received a lot of information today. Just
20 to give folks a head's up with regard to the next
21 steps for the Commission.

22 We'll take all the information that we've
23 received here, there are going to be a number of
24 late-filed exhibits that you've all heard about and
25 they'll be filed sometime in the next few weeks, I

1 suspect. And then we'll schedule a work session,
2 which is just the Commission's opportunity to talk
3 amongst itself and our own staff about where we see
4 the record, things that we see as next steps towards
5 a potential order.

6 And those meetings are all open to the
7 public, they're on the Internet. But typically
8 they're just opportunities for the Commissioners to
9 talk amongst themselves. We don't receive any new
10 testimony from the public or from the applicant,
11 it's just us conversing about it.

12 Then at some point after we have a --
13 kind of the will of the Commission, we'll direct
14 staff on how to write an order and then the order
15 will come up for a vote. You know, it could be
16 several weeks, four weeks, eight weeks, whatever it
17 is, however long it takes us to sift through it.
18 And then we'll vote upon the order at a Commission
19 meeting, either approving, rejecting, or modifying
20 in some way the application. So that's our steps
21 going forward.

22 One of the things I just wanted to talk a
23 little bit about in closing is something that
24 hopefully folks sort of caught on to along the way
25 here, which was the difference between a corridor

1 and a route, because it was used a lot during the
2 course of the day.

3 A corridor is the wider area in which a
4 line will eventually go. Where the specific line is
5 supposed to go is the route. And so you heard about
6 a corridor application versus a route application.
7 In the old days we used to have very wide corridors.
8 One of the nice things about very wide corridors is
9 once the Commission approved that it gave you some
10 flexibility in routing within that corridor. I
11 appreciate the fact that we're going to be getting
12 some late-filed exhibits with regard to options
13 because it allows us to maybe take some of those
14 things into consideration.

15 There's a reason why in recent years the
16 Commission has typically been a little bit more
17 favorable towards smaller corridors with the route
18 then in the middle. It's because of a law change
19 that happened where state law now reads that once
20 you have a previously sited corridor, other projects
21 can go in there with very minimal oversight by the
22 Public Service Commission. So just from a landowner
23 standpoint, oftentimes landowners like the assurance
24 that, if you had a two-mile wide corridor it could
25 open up a lot more development without any

1 Commission oversight, so we've tended to narrow down
2 those corridors a little bit. The trade-off is when
3 we have these types of hearings sometimes we need
4 some added flexibility because the corridor is so
5 much smaller.

6 So, anyway, thanks for being here. A lot
7 of you hung out for most of the day so we appreciate
8 the gift of your time and look forward to taking all
9 the information and making a decision at some point
10 in the future.

11 JUDGE WAHL: Commissioner Cramer.

12 COMMISSIONER CRAMER: Just thank you to
13 everybody who hung in there with us to the end. It
14 really is -- there's really nobody that understands
15 the impact of a facility like this more than the
16 people who are going to live with it. And so while
17 we can read all of the profile drawings and
18 testimony and charts, graphs, and maps in the world,
19 you know, unless we hear directly from the people
20 impacted it's hard for us to even wrap our mind
21 around it. Even if you did grow up in the area and
22 know every inch of the corridor and route.

23 So thank you for hanging in there, thank
24 you for your courage and your testimony. We look
25 forward to hopefully a conclusion that ultimately

1 won't satisfy every human being in the room or every
2 person involved, but we try to minimize the negative
3 impacts as best we can.

4 JUDGE WAHL: Commissioner Kalk.

5 COMMISSIONER KALK: Just, once again,
6 thanks for your time. And thanks for the tone today
7 of the testimony. It was all -- you had ideas, you
8 had thoughts, you presented them. Regrettably, some
9 of the hearings we've been in folks get really,
10 really upset and it doesn't -- it doesn't beg the
11 development at the end of the day. So I really
12 appreciate the work that all of you did in making
13 your arguments. And you brought out a lot of points
14 that, quite honestly, we hadn't thought about. And
15 what Tony pointed out, what's kind of unique about
16 the Commission is the three of us work together,
17 we're all friends, but we don't -- we don't talk
18 about cases unless we're in the format of a work
19 session, that's illegal.

20 So we won't talk about this case again
21 until the work session. But after our first work
22 session we'll all get a feel pretty quickly where
23 we're all at and where this thing is going to go.
24 So that's probably, if you're looking for something
25 to watch, whenever that work session gets announced,

1 listen in to it because that'll tell a lot of people
2 where we're going with this transmission line.

3 So thank you for your time.

4 JUDGE WAHL: Thank you, Commissioners.
5 Thank you, counsel. Good night all.

6 (Matter concluded.)
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1 STATE OF MINNESOTA)
) ss.
2 COUNTY OF HENNEPIN)

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5 REPORTER'S CERTIFICATE
6
7

8 I, Janet Shaddix Elling, do hereby
9 certify that the above and foregoing transcript of the
10 digitally-recorded proceeding, consisting of the
11 preceding 248 pages, is a full, true and complete
12 transcript of the digitally-recorded proceedings to the
13 best of my ability.

14 Dated November 9, 2012.
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18 JANET SHADDIX ELLING
19 Registered Professional Reporter
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