STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Minnkota Power Coop, Inc. Case No. PU-09-670
345 kV Transmission Line - Center to Grand Forks
Siting Application
- -

TRANSCRIPT OF PROCEEDINGS

10:04 o'clock a.m.

June 24, 2011

Taken Before: Al Wahl, Administrative Law Judge
Office of Administrative Hearings
1707 North Ninth Street
Bismarck, North Dakota

Taken At: Memorial Hall
805 Main Avenue, Dining Room
Washburn, North Dakota

Taken By: Joy Filipski, Court Reporter

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Kevin Cramer, Commissioner
Brian P. Kalk, Commissioner

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Jerry Lein
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Public

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MR. WAHL: Let's be in order, please.

This would be a good time to turn off cell phones, or at least set them to silent or vibrate, or whatever it is that you do so that they do not ring.

Good morning.

UNIDENTIFIED SPEAKER: Good morning.

UNIDENTIFIED SPEAKER: Good morning.

MR. WAHL: I am Al Wahl, the Administrative Law Judge, pursuant to Temporary Appointment, designated by the Office of Administrative Hearings, upon the request of the North Dakota Public Service Commission, to serve as the hearing officer for this hearing.

This is a hearing of the application of Minnkota Power Cooperative for a Certificate of Site Compatibility for a transmission facility corridor for approximately 260 miles of 345 kilovolt

transmission line and associated facilities to be constructed from the Center substation near Center, North Dakota, to the Prairie substation near Grand Forks, North Dakota.

This is North Dakota Public Service Commission Case No. PU-09-670.

There are three hearings for Minnkota's application. June 16 was held at Northwood, June 17 at Carrington and today at Washburn.

These hearings were initially scheduled to be held on May 3 at Grand Forks, May 4 at Carrington and May 13 at Washburn and were rescheduled upon the request of persons wishing to testify at a later date after spring fieldwork was expected to be completed.

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

Commission Chairman Tony Clark.

MR. CLARK: Thank you, Judge.

And, and thanks to everyone for, for being here.

As the, as the judge noted, we -- this is a rescheduled hearing and it was in

relation to a number of requests that we received from landowners along the line, for just the reason that he explained, that we wanted to make sure that as many people had an opportunity to participate in the hearing as, as possible.

And the reason we do that is, and the reason the state law, in fact, says that we, we need to hold these hearings in the counties that are affected, is because we do want to hear from you. And, and this is the, the venue to do it.

If, if you're not familiar with Public Service Commission hearings, we'll probably run through a little bit about what they're like.

They may be a little bit more formal than you're used to. It's more formal than, say, a legislative hearing or a city commission meeting or a county commission meeting.

Please know that, that the reason that we do that is not to discourage you from testifying, in fact, it's, it's just the opposite. It's just that state law says that

when the Public Service Commission makes a decision, it has to be based on a particular type of hearing record that's been developed. And it's a very sort of legal process that we have to go through.

But, but basically what it means is that anything on which that we're going to make a decision in this case, has to be developed as part of a formal hearing record, that's, that's developed with sworn testimony and, and the, the ability for cross-examination and, and all of that.

So it's, it's really a, a formal process, but the idea is that we get it all on the record so that we can make a decision.

The important thing to know about that is, that if you have anything that you want us to know, anything at all, it's important that you do it here today.

Because, you know, every now and then we'll get a situation where all three of the, the Commissioners and the judge'll, will run through how we develop our, our hearing record, then, sure enough, as soon as the hearing's closed, someone will catch you out in

the hallway and say: wow, that was really interesting, but what I'd really like you to know is this.

And as soon as that happens, unfortunately, we can't, we can't make a decision on it.

So it's important that, that you do testify if you have anything that you want to say.

We look forward to hearing whatever input that you have. And then we'll be able to, to take that back. We won't make any decisions today, but we'll, we'll take all the information that we gather and then make a decision based on the hearing record at some point in the future.

So, again, thank you for being here and I look forward to a good hearing.

MR. WAHL: Commissioner Kevin Cramer.

MR. CRAMER: Thank you, Judge.

And thank you, everybody, for, for the irrevocable gift of your time on this, on this day, the one day it's not raining yet this week, but --

As the judge pointed out, this is the third time we will hear much of this testimony and evidence and, yet, there's some new testimony and evidence as well, that we'll hear today. It's very important to, to the case for the company.

We're glad to hear it for the third time and we'll study it many more times.

We're especially grateful that you'll get to hear, not just how the line will affect this part of North Dakota, but, rather, its importance to the integrity to the entire system.

As -- and you'll -- as you'll hear from, from others, as well, as what you've heard to this point, that the strongest admonition for you all that we can give is to please do not walk out of here today wishing you had said something.

This is your one and -- well, it's your third and last chance to, to tell the Commissioners, to put on the record whatever is on your heart and your mind regarding this line, whether it's support, whether it's complete opposition or whether it's some

concern or challenge or some desire to have something changed.

This is the moment, this is the day when we can consider your concerns. So please be sure you do that.

We, we live in a remarkable place, in a remarkable time. We're, we're a state that is blessed, even among our trials this week and this summer.

We're blessed with ri -- rich natural resources on top of the ground, above the ground and underneath the ground.

And probably no community knows better the, the value of tho -- of all of those resources than this particular community.

And, yet, as an agrarian state and an energy-producing state, once in awhile the two come together and conflict. And it's our job as regulators to oversee the, the orderly development of our, of our energy resources, to ensure that the reliability of the system is intact.

But, most importantly, to ensure that any development is done in a way that has minimal adverse impact on the cultural and

natural resources, which we're also rich with. And, of course, the welfare of our citizens.

So that's what we're here to do. But we do it better when you're engaged with us, than if you are not.

So we -- we're grateful for your presence, we look forward to your participation.

MR. WAHL: Commissioner Brian Kalk.

MR. KALK: Thank you, your Honor.

Just -- Kevin and Tony always do such a good job setting it up.

I just kind of amplify, you know, the, the visual, as you drive through town. I mean, you go to the north end of town, you look off, you can see the coal stacks and you can see the wind turbines, you see the water coming down, you know, all that hydropower up north. And, you know, the farming and ranching.

You know, we're, we're here to, to decide a power line today. And so we need to figure out, you know, what impact that'll have on all of you. And that's what we come here, is to get your opinion, get your ideas, get your concerns, because we make better decisions

if we have better information.

So that's -- really the big admonition is, please tell us what your thoughts and concerns are, give us your, your ideas so we can make better decisions.

And I also see that Senator Freborg's in the crowd.

Thank you for coming out, Senator.

And look forward to a full and thorough hearing today.

MR. WAHL: Thank you, Commissioners.

The record will show that it is a little after 10:00 o'clock a.m., June 24, 2011, the time and date for the third of the three hearings scheduled as set by the Notice of Rescheduled Hearings issued by the North Dakota Public Service Commission, April 20, 2011, in Case No. PU-09-670, for a hearing of the application of Minnkota Power Cooperative for a Certificate of Site Compatibility for a transmission facility corridor for approximately 260 miles of 345 kilovolt transmission line and associated facilities to be constructed from the Center substation near

Center, North Dakota, to the Prairie substation near Grand Forks, North Dakota.

As I have previously recited, and as is set forth in both the initial Notice of Filing and Notice of Hearings and the Notice of Rescheduled Hearings and shown by the map which is part of each Notice, all of which have been duly noticed and published in accordance with the requirements of statute and rule.

The Commission's Notice of Rescheduled Hearings for this combined hearing, specified the following issues to be de -- to be determined upon this hearing.

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

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

Third, will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring

that energy needs are met and fulfilled in an orderly and timely fashion?

And, fourth, is it appropriate for the Commission to approve a 1,000-foot-wide corridor as requested in the application?

Ms. Smith, please state your appearance for the record and the appearance of co-counsel.

MS. SMITH: I am Mollie Smith, I'm here on behalf of Minnkota Power Cooperative. With me is Gerad Paul, he's with Minnkota. And I'm with Fredrikson & Byron.

MR. WAHL: Mr. Sagsveen, please state your appearance for the record and the appearance of Commission Staff, who will participate for the hearing.

MR. SAGSVEEN: My name is Matt Sagsveen and I'm an Assistant Attorney General and I'm here to represent the Public Service Commission today. And my -- to my left is Jerry Lein, Public Service Commission Staff.

MR. WAHL: I know there are people present who are planning to speak to the Commission. And I assume that there are also some people who may wish to speak to the

Commission.

We will do that at the completion of the presentation by Minnkota Power Cooperative.

While the process, as Commissioner Clark noted, is a little more formal than the usual city or county commission meeting or a legislative committee hearing, you should, nevertheless, not hesitate to come forward.

Here's how I will do this. We will, at, at the completion of Minnkota's presentation, we will take a break. And during that break, I will be happy to meet with anyone who has any question about how they can or should or wish to make their presentation to the Commission.

If you have photographs, maps or other documents which you want the Commission to have to consider and to be part of the record, I will mark those for you as Exhibits. I will help you get them into the record.

And, in fact, I will do everything I can to help you with your presentation, except, of course, I can't answer any questions that you may have about Minnkota Power's

application.

I can answer your questions about how you can speak to the Commission, how you can use maps or documents, or whatever you may have, but I can't answer your questions or advise you concerning the application itself.

Now, the process for your testimony is, is very simple. I will simply ask you to, to, members of the public, to come forward, stand up, come forward, have a seat at the table there.

I will ask you your name, I will ask you your residence address, whether your residence address is the same as your post office address; if, if not, what is your post office address.

And I will then as -- also ask you for the record whether you speak for any group or organization or whether you simply speak for yourself and your family.

I will then administer the oath that's required by law. And then I will tell you that you may proceed. And you should just tell the Commissioners what you think they should know. What information they should

have.

At the conclusion of your presentation, the lawyers will have an opportunity to, to question you. I -- technically, it's cross-examination, but this is not television.

I can assure you that the lawyers are not going to lean on you, they're not going to challenge you. If the lawyers have any questions for you or Commission Staff have any questions for you, it's because they, they think that some additional information would be helpful or they're trying to clear up some uncertainty that they have in their mind about what you have said.

The Commissioners will also have a chance to ask you questions.

And we'll continue the process, just as you will see, Minnkota present their witnesses today, until everybody has their questions satisfied.

We will not conclude the hearing, I, I don't expect that we're going to go all day and all night, of course, but we will not conclude the hearing until everybody who has

something to say to the Commission has an opportunity to do so.

Now, let me say one other thing. If, if, if you, if, if you don't happen to talk to me, if you're not too sure maybe what you're going to say, but you are sitting there and listening to something somebody said, and you say: you know, I, I would, I, I should comment on that.

Don't hesitate to come forward. You'll do just fine. You will.

All right. Ms. Smith?

MS. SMITH: Thank you, your Honor.

I'll just give a brief overview of the docket.

Minnkota filed its Letter of Intent on October 5, 2009, and that was acknowledged by the Commission in October.

And then a routing guidance letter was submitted by Minnkota in February of 2010. And they were seeking input regarding potential for designation of an up to 1,000-foot-wide route in a combined Certificate of Corridor Compatibility and Route Permit application process.

And in May of 2010, the PSC Staff responded to Minnkota with a letter. They indicated that the two proceedings, the Certificate of Corridor Compatibility and Route Permit application proceeding should be separate.

And they indicated that a preferable approach to proposing a thousand-foot-wide route would be to propo -- propose a 1,000-foot-wide corridor in the Certificate of Corridor Compatibility application.

In July of 2010, Minnkota filed an application for a Waiver of the Corridor Width Requirement.

We now understand from Public Service Commission Staff that that's not necessary. So we're just offering that as support for the thousand-foot-wide route that is propose -- or thousand-foot-wide corridor, excuse me, that is proposed.

In February of 2011, Minnkota filed its Certificate of Corridor Compatibility application.

And in -- March 18 of 2011,

Minnkota filed a letter with a slight modification in the Painted Woods Township area.

And the Commission issued its Notice of Filing and Notice of Hearing. And as was discussed, those initial hearing dates were then changed at the request of landowners and they were -- a, a Rescheduled Notice of Hearings was issued in April of 2011.

On June 9, 2011, Minnkota submitted a letter to the Commission with two slight modifications to the corridor. Again, one was in Painted Woods Township and the other was in Wells County.

And we will have seven witnesses here today.

The first witness will be Al Tschepen. Mr. Tschepen is vice president of planning and system operations for Minnkota.

He will provide background information regarding Minnkota, development of the proposed project and the need for the project to ensure access to adequate base load generation to serve load in Minnkota's service territory.

The second witness will be Tim Bartel. Mr. Bartel is systems engineering manager for Minnkota.

And his testimony will provide a brief overview of the need for the proposed project from a grid reliability standpoint.

The third witness will be Mike Hennes. Mr. Hennes is the system project manager for Minnkota and he is also the project manager for the Center to Grand Forks transmission line project.

He will provide an overview of the project and the intensive corridor selection process that resulted in the proposed project corridor.

He will discuss the factors that played a role in selection of the proposed project corridor and the approach to right of way acquisition that Minnkota has taken and will be taking and the proj -- project benefits.

The fourth witness will be Duane Phillips. Mr. Phillips is with Stanley Consultants, Inc. And he is the manager for the project engineering team.

His testimony will provide information regarding engineering and operational design for the proposed project, the right of way design, the associated facilities and project components and development of the proposed corridor, including the factors that were considered in selection of the specific corridor location.

The fifth witness will be Dr. Peter Valberg. Dr. Valberg is a principal for environmental health with Gradient.

And his testimony will be expert testimony regarding power line electric and magnetic fields, that are also known as EMF, and the scientific research regarding possible health effects that power line EMF on humans and animals and also the EMF standards and guidelines that exist.

The sixth witness will then be Terry Fasteen with Kadrmas, Lee & Jackson. And he is the project right of way task leader.

He will -- his testimony will provide an overview of the right of way acquisition process for the proposed project.

And the final witness will be Brian

Hunker with HDR Engineering. Mr. Hunker is the environmental consulting project manager for this particular project.

And his testimony will discuss the environmental studies that were performed and the environmental analysis that was conducted with respect to the proposed project.

He will also discuss the National Environmental Policy Act, or NEPA process, that the project is also undergoing.

And that will include the various agency consultations that are required as part of both this process and that process.

Thank you.

MR. WAHL: You may proceed.

MS. SMITH: I would call Al Tschepen.

MR. WAHL: I note for the record, Mr. Tschepen, that you have previously testified for these hearings.

And you understand, of course, that your testimony for this hearing continues under oath and subject to penalties of perjury?

THE WITNESS: Yes, I do.

A L T S C H E P E N,

called as a witness, being previously first duly sworn, was examined and testified on his oath as follows:

MR. WAHL: Ms. Smith.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Could you please state your full name for the Commission?

A. Al Tschepen.

Q. And by whom are you employed?

A. Minnkota Power Cooperative.

Q. And what is your business address?

A. 1822 Mill Road; Grand Forks, North Dakota.

Q. And what is your position with Minnkota?

A. Vice president of planning and system operations.

Q. And could you just briefly discuss your education and your work history?

A. Sure.

I have a bachelor of science degree

in electrical engineering from North Dakota State University.

I have been employed by Minnkota for 34 years, the last 23 years of that as senior management.

Q. And what is your role with respect to the proposed project?

A. I worked on developing the electric load forecasts which shows a growing need for electrical power in our are -- service area, as well as developing the resource options to serve that growing electrical need on a least cost basis.

Q. And in your role for Minnkota, are you familiar with Minnkota's purpose, service obligations and operations?

A. Yes, I am.

Q. What is Minnkota and what is its purpose?

A. Minnkota's a generation, transmission cooperative located in, in Grand Forks, North Dakota.

Our purpose is to, as a not-for-profit organization, to provide wholesale power to our eleven distribution

cooperative member-owners who are located in eastern North Dakota, northwestern Minnesota.

We serve their power needs on an all-requirements basis. And that they, in turn, serve the retail customers in the region.

Q. And what obligations does Minnkota have to its member-owner distribution cooperatives with respect to providing service?

A. As a not-for-profit organization, Minnkota provides our owners, our eleven-member distribution cooperatives, power at the lowest possible cost.

We have contracts in place until 2055 to perform that obligation, so it is a, a long-term commitment on our part.

Q. And what areas do Minnkota's distribution cooperatives serve?

A. They serve roughly a 35,000-square-mile area located in eastern North Dakota and northwestern Minnesota.

Within that area is 120,000 customers and approximately 300,000 people that are served.

Q. And who controls Minnkota?

A. Minnkota and the distribution

cooperatives are, are owned by our, our members, which are customers at the end of the line.

And, in turn, each one of the distribution cooperatives has a member on the Minnkota board and it's that Minnkota board that controls Minnkota.

Q. And you testified that you worked on load forecasting and identifying least cost resource options.

Based on your load forecasting resource option assessment, why does Minnkota need to construct the proposed project?

A. Minnkota needs to construct the proposed project to serve the growing needs of our, of our member systems. And it is the, the least cost approach to serving their, their needs on. And this project will provide that, that base load power.

Q. And when you use the term: base load generation, or base load power, what do you mean?

A. I mean power that's available 24 hours a day, seven days a week, around the clock. It is characteristic of higher fir --

fixed costs on the front end, but a lower overall cost.

Q. And why does Minnkota need additional base load generation?

A. Minnkota's electric load is greatest, the members consume the most power, during cold winter days, when needs for space heating, electric heating, in our case, is greatest.

Probably have 25-below-zero temperatures, northwest winds. Car heaters are, are plugged in at the time. And there'd be, compounded also on top of that, would be likely lighting load.

And we do load forecasting, our distribution cooperatives in Minnkota, on a rigorous basis.

Are re -- are required every two years to refresh those forecasts.

Our latest forecast call for increasing electrical needs of about 1.9 percent per year over the next 25 years.

Minnkota files that in our Ten Year Plan with the State of North Dakota, so we're on, on record there.

And that those increasing needs are driving us to look for additional base load, to, to serve that.

We anticipate and have been studying this for a long period of time. And the need for the new base load is required in approximately 2013.

Q. And I'd reference you to what's been previously admitted as Exhibit 1. And it's also on the board that is next to you.

Could you just explain what's depicted in Exhibit 1?

A. Yes. Exhibit 1 is a load growth chart.

The left half of the, the chart, the, the scale from 0 to 7 million is the amount of energy that's consumed on an annual basis.

The, the grid along the bottom is the dates from 1988 to the year 2033.

And the left most part of the chart, which I'm outlining here, is the historical usage of electrical power of our customers.

And then the, the forward growth is

projected here through the year 2033.

Q. And how far in advance does Minnkota have to plan in order to address forecasted base load generation needs?

A. Quite a long time. And the reason is is that base load generation, like a coal-fired power plant, will take anywhere from seven to eight years from the time you say go, to have something online. And if it'd be, say, a nuclear plant, it'd even be a, a lot longer period of time.

So there's a lot of things we have to do ahead of time when you try to figure out what the least cost resource option is. You look at a, at a lot of factors.

One is, do you have available an adequate and a stable fuel supply for that power plant for maybe the next 40 to 50 years.

What about the environmental impacts in the area, are there, are there constraints.

What about water to operate the plant. Manpower to operate the plant. And then, probably most importantly, what is the, the least cost approach.

Q. And in your role with respect to the project, did you study various alternatives to address Minnkota's need for this forecasted base load generation?

A. Yes, we did.

Q. And what alternatives did you study?

A. We studied several alternatives, going back to 2003.

We talked with Otter Tail Power, who was the lead project utility on the Big Stone 2 power plant proposal. That is a development in northeast South Dakota. There's an existing power plant there called Big Stone 1.

Otter Tail was looking for partners to construct the second plant there, called Big Stone 2. So we had visited with them numerous times.

We also visited with our neighbors to the north, Manitoba Hydro. As you know, they have vast hydro resources. We had proposals in hand from them.

We also -- was part of a study group with other G&T cooperatives, like

Minnkota and municipal systems in the upper Midwest, we banded together to look at the prop -- possibility of in -- putting up a, a nuclear power plant to serve our, our growing needs.

We looked at combustion turbine, in, in terms of, of generating electricity in that way, and then maybe buying power from the market.

We also looked at, and most recently, was what we call the Young 3 project. At the Young station, there are two coal plants there today, Young 1 and Young 2. Young 3 would have been the development of a third plant at that particular site.

And, incidentally, that would have required the, the project we're talking about today, Young 3 would have required a line from Center to Grand Forks.

Q. And what then led to the development of the proposed project rather than one of those alternatives?

A. A lot of it came about because of our business relationships with Square Butte Electric Cooperative and Minnesota Power.

Square Butte Electric Cooperative is -- owns the Young 2 station, which is the second unit at, at Young. And it is owned by the same cooperatives that own Minnkota.

That power plant has sold half the output to Minnesota Power, the other half to Minnkota.

And, and, also, the, the DC line is there to transmit that power from Center to Duluth, Minnesota.

Now, in our, our Young 3 discussions, Minnesota Power was, was part of that project and so we got to know them quite well, they've also been a partner with us in the Square Butte unit since 1977.

And they've shared with us that, in the state of Minnesota, they have a 25 percent renewable requirement, meaning, by the year 2025, 25 percent of their power requirements have to come from a renewable resource.

Wind would be the likely candidate for providing that. They do not have very good wind characteristics in northern Minnesota, Duluth area, the taconite area, where they serve. However, they were quite aware of the

rich wind resources here in, in North Dakota.

Also, it was evident to them that Minnkota had a growing need for base load generation.

And so through the combination of working on various proposals back and forth, it came about where Minnesota Power would develop wind in North Dakota, by the DC line from Square Butte and then they would transmit that wind-generated power, North Dakota, to Duluth, to their service territory.

In exchange, Minnesota Power would turn over their 50 percent share of Young 2, an existing base load generator, to Minnkota from the years 2013 to 2026.

And then to deliver that Young 2 generation to Minnkota, since the DC line is no longer available, because that was going to be used for sending wind to Minnesota, Minnkota would need to build a new 345 line to deliver the Young 2 generation to our service territory in, in eastern North Dakota and northwestern Minnesota.

And that was the, the least cost option that we had, had come up with, of all

those that we studied.

And in addition, there is a, a significant reliability need in the eastern part of North Dakota. Reliability needs to be improved in -- on the transmission grid in eastern North Dakota.

And Tim Bartel, the next Minnkota witness, will address that, that particular need.

Q. And does the project then provide a long-term means of addressing Minnkota's need for additional base load generation?

A. Yes, it does.

And it does so without having to build a new power plant. The power plant is already existing. And it's, it's our, our least cost option, providing additional generation for our member-owners going forward.

The, the new line will deliver that base load generation to the heart of our service territory in eastern North Dakota. And, also, it will fulfill our base load needs we think until about the year 2030.

MS. SMITH: I have no further questions.

MR. WAHL: Mr. Sagsveen?
MR. SAGSVEEN: I don't have any questions, your Honor.
MR. WAHL: Mr. Lein?
MR. LEIN: No questions, your Honor.
MR. WAHL: Questions from the Commission?
Commissioner Cramer.
MR. CRAMER: Thank you, Judge.
And I can't believe I didn't think of this the first two times I heard this, but --
When you talk about the seven to eight-year timeline for building a base load plant, a coal plant, does that include the regulatory process that gives you the, the go, as you used it, or was that the go from your -- from the -- from Minnkota or the go from regulators?
THE WITNESS: I -- it would be a go from Minnkota.
MR. CRAMER: Okay.
THE WITNESS: And then we would have to go through all of the, the regulatory

things going beyond that.

We don't even really know for sure. You know, that's our best estimate --

MR. CRAMER: Sure.

THE WITNESS: -- from seeing other plants developed.

But, yeah, it's just a tremendous amount of planning, design, regulatory issues that have to be solved.

MR. CRAMER: So the actual construction is something less than that?

THE WITNESS: Yes, it's probably about three to four years.

MR. CRAMER: All right. Thank you, nothing further.

MR. WAHL: Any further questions from the Commission?

Anything further, Ms. Smith?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No, your Honor.

MR. WAHL: Thank you very much, Mr. Tschepen.

(Whereupon, the witness was excused.)

MS. SMITH: Next witness is Tim Bartel.

MR. WAHL: I note for the record, Mr. Bartel, that you have testified previously for these hearings.

And you understand, of course, that your testimony continues under oath and subject to penalties of perjury?

THE WITNESS: Yes.

T I M B A R T E L,

called as a witness, being previously first duly sworn, was examined and testified on his oath as follows:

MR. WAHL: Ms. Smith.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Could you please state your full name?

A. Timothy Bartel.

Q. And by whom are you employed?

A. Minnkota Power Cooperative.

Q. And so you're at the same business address as Mr. Tschepen?

A. Yes.

Q. And what is your position with Minnkota?

A. I am systems engineering manager.

Q. And what does your position as systems engineering manager entail?

A. Among other things, I assess grid reliability issues and analyze options for improving the grid as needed.

Q. And could you briefly discuss your education and your work history?

A. I have a bachelor's in electrical engineering from NDSU.

I've been at Minnkota Power for 25 years, much of that time I have spent studying high voltage grid reliability issues. For the past three years, I've been systems engineering manager.

Q. And what is your role with respect to the proposed project?

A. I supervise the studies that evaluated the best transmission alternative to

deliver Young 2 power to Minnkota's service area.

Q. And in his testimony, Mr. Tschepen indicated that the proposed project will address grid reliability issues.

Could you discuss the grid reliability needs that would be addressed by the proposed project?

A. There are two major issues. One is, we need the capability to deliver the large amount of power that Young 2 puts out to the Minnkota service territory.

And so we need major substation connections to do that because of the large amount of power.

And the second issue is, we need to improve the load serving reliability in eastern North Dakota and northwestern Minnesota.

Q. And what are the risks of not meeting the identified needs?

A. Referring to the first issue, if we don't build an adequate path between Young 2 and the Minnkota service territory, we risk overloading the existing transmission system between the Young station region and Minnkota's

load region.

Regarding the second point, if we don't provide reliability improvements to eastern North Dakota and northwestern Minnesota for service to load, we risk experiencing voltage instability, which would mean that we're unable to serve some of that load from any direction due to overloads on the transmission system coming from all directions into that region.

Voltage instability means that we cannot operate the system with voltage within normal limits. And the results of that type of phenomenon is we risk widespread brownouts, which typically causes significant damage to motors.

We do everything that we can to avoid that type of situation in the operating world.

And so we would work with the Midwest ISO, which is our reliability coordinator. They supervise the reliability issues on the high voltage grid in the upper Midwest for much of the high voltage system.

We would work with them. We would

establish what a -- an appropriate load serving limit would be. And then we would establish agreements for either public appeals to reduce load so that we wouldn't experience these brownouts.

Or if it became an extreme case, we would have to go to rotating blackouts in order to keep the load within serveable limits.

And another thing I would point out is that we need margin on the system for unanticipated events.

And we quite often have such events due to significant weather issues, ice storms, tornadoes, that type of thing.

Q. And you mentioned that if the proposed project isn't constructed, the load within Minnkota's service territory may be unable to serve from any source due to this voltage instability issue. What indicates that that is a risk?

A. I would point to a number of weather-related events that we've had in the past decade.

Actually, eleven years ago, August of 2000, we had high straight-line winds around

Devils Lake and 10 miles of 230 kV line was blown down west of Devils Lake.

The original assessment after that event, the, the assessment was, it would take one year to restore that line to service, which meant that we would have to serve the system without that line for the winter that was, was upcoming, was -- that would be the winter of 2000 and 2001.

And as we studied the system, and looked at attempting to serve that load with that high voltage line out of service, we came to the conclusion that we could not serve all of the load in eastern North Dakota and northwestern Minnesota for that situation.

And, therefore, we agreed on an operating limit. And we did have a guide in place where we were prepared to take any steps necessary to manage the load within limits.

In the end, the power companies in the region decided it was too great a risk, and we got together and put up a temporary line to restore that circuit to service.

And then the transmission owner, later, put the final replacement line in

service.

Another weather-related event was in November of 2005, we had an ice storm that damaged 35 high voltage transmission lines in North Dakota, South Dakota and Minnesota, all in one weather-related event.

And that reinforces the idea that we need margin on the system, because we cannot study for scenarios like that.

And then the third event, just last spring, we had a 230 kV line in western Minnesota out of service for two months due to flooding.

Q. And do these events indicate a need for system improvements, such as the proposed project within Minnkota's service territory?

A. Yes.

Q. And how urgent is that need for system improvements?

A. I would begin by explaining a few terms that we use for evaluation of system reliability.

We use the term N or N-1 or N-2. And N simply means the number of high voltage facilities that we have in the system.

And N-1 means one of those facilities is out of service. N-2 means two facilities out of service and so on.

So in the study world, when we're planning in advance for years, years in advance, we spend a lot of time looking at the N-1 situation.

We research and evaluate to find out what is the most critical facility or facilities to the system. And then we take those facilities out of service in our models and make sure that we can still operate the grid within the appropriate limits.

In real-time operations, on any given day, we will look at the grid as it stands on that day with however many facilities happen to be out of service.

It may be -- we may be dealing with an N-1 situation, then we'll always attempt to be prepared to have one more facility outage.

And at that point, we would again be looking for the most serious facility outage that could possibly happen.

And we will operate the system so that we would be within normal limits, even if

that facility did go out of service.

And the point for doing this is, of course, we want to prevent cascading events where we end up with a large-scale blackout or brownout due to something we weren't prepared for.

We also do this to prevent damage to equipment, which has long lead-times and, and high, high voltage equipment is very expensive to replace.

Now in 2000, that emergency west of Devils Lake pointed out to us that we were not able to withstand an N-2 situation. We were in N-1, because of the outage of that 230 kV facility.

And in our evaluation, the next facility outage would be more than we could withstand and still serve all of the load.

That was eleven years ago and still no high voltage lines have built, been built into the eastern North Dakota, northwestern Minnesota region.

Our technical studies for this project show that somewhere in the 2013 to 2015 time frame, we will not even be able to serve

all of the load and withstand a single contingency, meaning, we cannot even operate in an N-1 condition.

So, in essence, the state of the system in that 2013, 2015 time frame, does not pass our planning study requirements.

And for this, we believe it's timely that our project is proposed to come in service in 2013.

Q. And I'd refer you to Exhibit 2, which has been previously admitted, and it's also on the board next to you. Could you explain, then, how the Grand Forks was chose -- how Grand Forks was chosen as the eastern terminus for the project utilizing Exhibit 2?

A. Yes. This is the project reliability benefit map. The green area is Minnkota's service territory. The blue circle is the region of load in eastern North Dakota, northwestern Minnesota, that's at risk of voltage stability problems that I've been referring to.

In the studies, the studies that took place after the major transmission line outage west of Devils Lake, which I'm pointing

to here, pointed out that this blue circle really exists. That's, that's the point in time where we began to realize the degree to which we have a voltage instability problem.

And as we con -- continued with those studies, we became aware that the transmission elements entering that load serving region from all directions could become overloaded, creating this voltage stability problem.

And by observation, we began to realize that the northern portion of this circle has some significant risks in and of itself.

And we noticed that there are only four major transmission lines that, that enter the northern portion of this circle; whereas, there are ten major transmission lines that enter the southern portion of this circle.

And so we realized we need to consider the northern versus southern portion of this circle as having unique needs that need to be addressed.

Now for Minnkota's purposes, I mentioned that we need a major substation to

connect this new transmission line from the Young 2 generator.

And Minnkota has two good candidate substations. One of those is Grand Forks and one of those is in the Fargo area.

And as you can see from the map, the Fargo area connection would be in the southern portion of this constrained region, whereas, the Grand Forks location is in the northern portion of this region.

So by virtue of those studies that have been ongoing since 2000, it became clear that it would be advantageous to make the connection at Grand Forks.

In specific studies that we did for our project, we put some numbers to this. We identified that by connecting to Grand Forks, we can improve the load serving capability by 25 percent. By connecting to the Fargo area, we had a much more marginal ability to improve system performance, somewhere in the region of 6 percent.

Also, I would point out that there are three existing high voltage transmission lines entering the Fargo area from the west,

coming from the Bismarck and Center area.

And so building our line along that same corridor would put us at greater risk of common transmission outages that happen when major storms come through the region.

So we benefit by a diversity of corridor or of routing by moving to the north and coming up to Grand Forks.

Q. And when Minnkota was developing the proposed project, were -- was the ability of the project to accommodate renewable generation considered?

A. Yes. We looked at our inter -- our generation interconnection queue. Any generation project that wants to use the high voltage grid has to put their name in a queue.

And in Minnkota's case, our, our generation interconnection queue is posted on our website. And we reviewed that queue and looked for those generating projects that may benefit from our transmission project or may have an interest in working with us to alter our project for their benefit.

And we talked with those customers and they did not express an interest in

contributing to our project or proceeding with, with us in the studies for any possible alterations for their benefit.

We also did a feasibility study. And we looked at a larger number of queued entries, generation interconnection requests in our queue, to confirm that our choice of conductor or other specifics of our design would not implicitly prevent further development of renewable generation or other technologies of generation that might be out there.

And we confirmed that our conductor selection would not be an immediate bottleneck to further development.

We also identified a few good options for modifications to our design. Those modifications would not require any changes to the conductor or any changes to the structures, such as double circuiting, but, rather, they would be new connections that would be possible to our line as it crosses North Dakota.

These connections possibly could be to other existing points on the grid or new lines that could be built to establish other

strong connections to the grid.

Q. And did Minnkota take into consideration other major transmission line projects being developed in the region when developing the proposed project?

A. Yes. There are two other major high voltage projects in the region that's covered on the map, in Exhibit 2.

One of those is the Bemidji-Grand Rapids line, which goes from Bemidji, Minnesota, east, to the Grand Rapids area. That provides a connection from this constrained region to another strong generating source around Grand Rapids.

That project is a joint project between Minnkota Power and the CapX2020 group.

And that project is due in service in 2012.

It's being built primarily for benefit to the, the growing loads around the Bemidji region itself, but it has broader implications and benefits throughout this load serving region as well.

The other major line that I would refer to is the Fargo to St. Cloud line, which

will be built from Fargo, down towards the Twin Cities, in the Far -- in the St. Cloud area.

If you've driven Interstate 94 to the Twin Cities, Cities, you will already see this line being built. It's being built from the east end towards the west.

So you'll see a lot of construction activity. The poles are being erected down in the, in the St. Cloud area, a very visible project along I-94.

That project is being put in place by the CapX2020 group, expected in service in the year 2015.

That project is designed to support specifically, especially the southern portion of this reliability region that I've been discussing.

So now our project being posed from the generating region in North Dakota and for our purposes, specifically Young 2, provides a strong connection from the North Dakota generating region into this reliability circle.

So the projects work very nicely together, with ours coming from the North Dakota generation and then the Bemidji project

coming from north central Minnesota and the Fargo project coming from east or south central or southeastern Minnesota.

The projects work very nicely together. We believe that at least for any issues related to reliability within this load region that's identified on the Exhibit, we should not need anymore transmission within the next 30 years.

We have a coordinated study process. Minnkota participates in the studies for these other projects that I've described.

We are -- we have access to the models that they use. We have input on their models and their study process.

And, on the converse, they participate in discussions with our studies. They have input on our models. We share the models back and forth to make sure that we all use similar assumptions in our modeling.

MS. SMITH: I have no further questions.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I don't have any questions, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions.

MR. WAHL: Questions from the Commission?

Commissioner Clark.

MR. CLARK: Just one related to your comment on the queue and the interests that you solicited from project developers along the way, primarily wind projects.

And they de -- you -- they declined to sort of participate in the project to provide you additional feedback on how it might be modified.

Did you get a sense of why that is? What -- and I'm running through a number of scenarios through my head, why that might have been, that you didn't receive that interest.

Was it, one, they're basically happy with the design layout and they might look at it at a future time to simply tariff into it?

Was it a sense of maybe their projects weren't far enough along to be that seriously involved with, with some sort of financial commitment to it?

Or was it -- it's just a better deal to tariff it later? Or was there just no indication at all, really, of why, why that didn't occur?

THE WITNESS: Our transmission project is being built specifically to support a load region in eastern North Dakota, northwest Minnesota.

Much of the generation that's being proposed in North Dakota has an interest in marketing to a broader load region, essentially what we refer to as the MISO footprint, which would be the Midwest ISO load region, which covers a lot of the Midwest.

The big loads in MISO are the Minneapolis, Twin Cities area, as well as the Chicago area.

So our project is not in and of itself a great outlet line for that. As I, as I noted, there are some good options to making interconnections with our project to support that, but those interconnections will also have a cost associated with them.

And given that these customers, at least it's my view, that there were too many

uncertainties on what third-party investments might be required, they didn't know exactly what their outlay would be after participating in our project, so that they could go forward.

Too much cost uncertainty is the way I view it.

MR. CLARK: Okay. Thanks.

MR. WAHL: Further questions from the Commission?

MR. CRAMER: None from me.

MR. WAHL: Commissioner Kalk.

MR. KALK: Thank you, Tim, for your testimony.

The -- obviously we've talked a lot over the last couple of hearings.

The, the previous two hearings, we talked about how those particular regions would benefit from this power line, from reliability and those kind of things.

And I, I suspect later today, we -- we'll hear concerns from landowners that are going to have to farm around these poles for a long time.

The -- tell me what people living

within about 75 miles, give or take, of this region, how they're going to benefit from this line.

THE WITNESS: I believe the biggest benefit is, whenever there's a high voltage line, AC high voltage line crossing a region, it provides new opportunities to tap the line, to interconnect to, to the existing grid at any point along its length.

And so this provides that opportunity for strengthening the grid at any point between the Young 2 station and its terminus on the east end.

MR. KALK: So even though the folks here, most of them would be outside the Exhibit 2 circle, there's still a, a re -- a significant reliability benefit to people in this area?

THE WITNESS: There could be if they choose to make that tap.

We have -- I have had discussions with other study people who have been wondering if there might be a good option there; in other words, it's on a few people's minds already to consider ways that this line can be used to

strengthen the system in west -- in the west and central North Dakota.

MR. KALK: Okay, thank you.

MR. WAHL: Further questions from the Commission?

Anything further, Ms. Smith?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No, your Honor.

MR. WAHL: Thank you very much, Mr. Bartel.

(Whereupon, the witness was excused.)

MS. SMITH: I would call Mike Hennes.

MR. WAHL: I note for the record, Mr. Hennes, that you have testified at the previous hearings held for this case.

And you understand, of course, that your testimony continues under oath and subject to penalties of perjury?

THE WITNESS: Yes, I do.

M I K E H E N N E S,

called as a witness, being previously first duly sworn, was examined and testified on his oath as follows:

MR. WAHL: Ms. Smith.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Could you please state your full name for the Commission?

A. Michael Hennes.

Q. And I, I -- can you -- you might have to scoot up a little bit to the mike.

By whom are you employed?

A. Minnkota Power Cooperative.

Q. And you're at the same address as Mr. Tschepen, then?

A. That's correct.

Q. And what's your position with Minnkota?

A. I am the systems project manager at Minnkota.

Q. And could you briefly discuss your education and your work history?

A. Yes. I have a bachelor of science degree in electrical engineering and engineering management from the University of North Dakota.

I started my career with Basin Electric in 1975.

I then spent ten years with the University of North Dakota, doing atmospheric research.

And then I rejoined the power industry, with Minnkota, in 1994, as electrical engineer. I've also served as a project engineer and engineering manager while at Minnkota.

Q. And what is your role with respect to the project?

A. I am the overall project manager.

Q. And what are your responsibilities as the project manager?

A. I have the overall responsibility for the scheduling, budgeting and the coordination of the permitting, design, right of way acquisition and the construction of this proposed project.

Q. And could you please tell the

Commission about the various people or groups of people that make up Minnkota's project team?

A. Minnkota has assigned, from its staff, team leads in the areas of engineering, environmental/permitting, procurement, right of way and legal, communications, public relations and also construction management.

We've also hired outside consultants to assist us with this project. And the prime consultant is Stanley Consultants, who was responsible for overall project design and construction management.

They, in turn, have subcontracted to Kadrmas, Lee & Jackson, a local firm, providing surveying and right of way acquisition assistance for the project.

And we've also retained the services of HDR Engineers as our environmental and permitting consultant.

Q. And why is Minnkota use -- Minnkota using outside personnel to assist with the proposed project?

A. This is normal practice for a project this size. It's impractical for a company our size to staff up for this large a

construction project.

Our normal construction projects are, on an annual basis, in the 5 to $10 million range, where this project is spanning $300 million plus.

Q. And I'd just refer you to Exhibit 3, which is front of -- in front of you.

And did you participate in the preparation of this document, which is the Certificate of Corridor Compatibility application?

A. Yes.

Q. And could you please provide the Commission with a basic description of the proposed project?

A. The proposed project is approximately 250 miles long. It's a 345 kV transmission line that originates in Center, North Dakota, and transverses west to east and terminating near our, Grand Forks, North Dakota, at our Prairie substation, which is on the western edge of Grand Forks.

This project will also require modifications of the existing Center substation and Square Butte substation, which is nearby.

Also, the Prairie substation will require additional modifications, as well as installing fiber optic regeneration stations along the route.

We also install our -- a 230 kV tie line between the Center and Square Butte substations. And also relocation of existing transmission lines that terminate at Center and Prairie.

The total project estimated costs for all this work is $312 million.

Q. And will the project be owned and operated by Minnkota, Minnkota Power Cooperative, Inc.?

A. Yes.

Q. And what is Minnkota's anticipated schedule for the project?

A. The project was originally on a four-year timeline. We are moving now to a five-year schedule. And this is based on anticipation of the PSC route permit issuance later in the fall of 2011.

That would allow for a limited construction start this fall. And that would put us on track for in-service date, third

quarter of 2013.

Q. And can you explain why you are allowing approximately two years for construction of the project?

A. With our construction progress estimated at approximately 8 miles a week, that translates to about 40 structures installed.

This schedule does allow for downtime during the heart of our, our winters, as most of this construction is outdoors in unprotected areas.

And, also, this time frame allows us to avoid construction during times when route restrictions are in place, in the April, May, early June time frame.

And this also helps minimize road damage and soil compaction during construction.

Q. And you testified that as, as project manager, you are involved in the permitting and design of the proposed project. Is that right?

A. Yes.

Q. And so as part of the permitting and design work, have you been involved in the siting process for the project, inclu --

including the selection of the proposed project corridor?

A. Yes. I've been involved in all aspects of the siting.

Q. And could you provide the Commission with an overview of the siting process for the project?

A. The siting process we've been using on the Center to Grand Forks project involves a four-step approach.

Now, steps one and two are the federal review process and steps three and four are the, part of the state permitting process we're now entering.

I'll use Exhibits to explain these steps in more detail as we go on.

Q. And why is the project undergoing a federal review?

A. As Minnkota is requesting funding from the U.S. Department of Agriculture's Rural Utilities Service, I'll refer to as the RUS, to construct this project, a federal review is required for loan approval.

And the process includes complying with the National Environmental Policy Act, or

NEPA.

Q. And we'll utilize Exhibits 4 through 8 that have been previously admitted to discuss the corridor.

But before we do that, could you discuss what the term corridor and the term route mean in the Exhibits that are depicted on the boards?

A. Generally, the term corridor implies a wider study area. And that would be shown in the white on Exhibit 4, or the blue, on the following Exhibits.

This -- and their term route implies one or more narrower paths considered for the proposed transmission line within this broader corridor.

For example, on the Cen -- Center to Grand Forks project, in the federal review, Minnkota first identified a 6-mile-wide corridor and then selected three 1,000-foot-wide routes within that corridor for the detailed analysis.

For the state process, Minnkota now will start with the identified preferred route from the federal process, rename it the project

corridor.

And this project corridor will then be further analyzed in order to select the location of the narrower 100-foot-wide route that will be the basis of the project. A Route Permit application to follow.

Q. I think you, you said a hundred foot, will it be 150-foot-wide right of way?

A. That's correct, 150-foot.

Q. And how has the federal review process played a role in developing the corridor that's the subject of today's hearing?

A. Well, Exhibits 4 through 8 help demonstrate this methodical narrowing process that took the project from the 6-mile-wide study corridor as the starting point, to a 1,000-foot-wide corridor, which corresponds with the four-step approach to siting I mentioned earlier.

Steps one and two, which are part of the federal review process, are shown in Exhibits 4 through 7.

Q. And could you describe for the Commission step one of the siting process?

A. Step one was to prepare an

Alternative Evaluation Study, which was the basis for earlier testimony by Mr. Tschepen and Mr. Bartel.

Now this study identified the need for the project and reviewed alternative solutions.

A Macro-Corridor Study was also prepared, that identified the high-level environmental considerations in this 6-mile-wide corridor that would be common to any proposed route required to build the project, as we identified in the AES, or Alternative Evaluation Study.

Exhibit 4 shows the constraints and challenges reviewed in the Macro-Corridor Study.

Public input was solicited to help identify areas to avoid, such as cem -- private cemeteries, center-pivot irrigation and private airstrips.

Now this information from that public input was then added to the project detailed maps to aid us in our route selection.

Exhibit 4 also shows the locations of the existing transmission infrastructure in

North Dakota, as referred to by Mr. Bartel.

Selecting a corridor with geographic separation from existing lines was a goal to maximize the reliability.

As you can see along the I-94 corridor, all the abundance of transmission lines. And on the northern part of our state, we have one transmission line.

So from a reliability standpoint, by locating along the 200, Hi -- Highway 200 corridor, as our primary review, it, it does provide that maximum geographic separation from the other transmission lines.

Exhibit 5 shows the, the refinement in the Macro-Corridor, again, as a result of this public and agency input.

A more northern Missouri River crossing was eliminated, and that's shown in the light gray there.

And this was eliminated basically to public input and agency concern about crossing near the Cross Ranch.

And the comments basically encouraged us to consider a river crossing that paralleled and was in between two existing

transmission eas -- easement crossments as, as not to introduce a new corridor crossing the Missouri River.

We also eliminated a southern route along the Wing area, due to high concentration of, of wetlands and large -- larger wetlands, which a -- which accommodated engineering challenge to get through that area.

Q. And what was step two of the siting process?

A. Step two was to prepare an Environmental Assessment with a scoping report.

The purpose of the Environmental Assessment is to identify routing alternatives within the study corridor and evaluate those alternatives to identify the route with the least overall impact for the entire 250-mile project.

Exhibit 6 shows the approximately 191 route segments that were reviewed.

And those routing segments were then screened down to the three proposed routes that are shown in Exhibit 7.

Q. How then did Minnkota select the 1,000-foot-wide corridor that's the subject of

today's hearing?

A. Step three of the siting process was to identify a corridor in which a transmission line route that will meet the North Dakota PSC siting criteria can be located.

The preferred 1,000-foot-wide route identified in the Environmental Assessment process most fully met this criteria.

That route has now been further refined with additional landowner input.

The result is the 1,000-foot-wide corridor presented in Minnkota's Corridor application and shown in Exhibit 8.

Q. And what will step four of the siting process be?

A. Step four of the siting process will be to identify the final alignment of the 150-foot-wide route within the proposed corridor and submit this in our Route Permit application.

Q. And then I direct you to Exhibit 9, which is in the book and it has already been previously admitted, and then we're going to also have Exhibit 9 on the board so that you

can reference that as well.

And using Exhibit 9 as a reference point, could you describe for the Commission the public involvement opportunities that have been or will be provided during the siting process for the project?

A. Public involvement and, and input has been a key priority for Minnkota from the beginning. And this helps to ensure an open and accessible corridor development and a route siting process.

Exhibit 9 provides this overview of the public participation opportunities during the corridor selection process.

It's a busy chart, so we color-coded it to help us wade through.

It has a timeline on the vertical access from 2009 at the top, down to present, 2011, at the bottom.

Now the yellow boxes indicate Minnkota's-sponsored outreach efforts. So the blue is used to indicate the public input opportunities during the federal process. And the green indicates the public input opportunities that have occurred or will occur

during the state process.

Now during this whole process, Minnkota has held nearly 20 public meetings since two -- early 2009, to which over 800 people have attended. We have received over 300 comments and these have been addressed.

Most recently, numerous local public meetings for Conditional Use Permits are being held at the township and county levels.

Q. And are there other tools that you're utilizing to provide public input opportunities?

A. Yes. As a result of these efforts, substantial public and stakeholder input has been collected and is, is being considered in developing a corridor and the final route.

We've also developed additional outreach tools, including a project website, a toll-free information line, quarterly newsletters that we published and mailed to landowners that are, are adjacent to the proposed corridor, fact sheets, frequently-asked questions are on our website. And, also, we maintain a stakeholder database.

Now Minnkota is committed to

ongoing communications and outreach and will continue these efforts through the construction phase of the project.

Q. And how do the public involvement opportunities that are noted in Exhibit 9 correspond with the corridor selection process that you just described?

A. Exhibit 9 documents the timeline and milestones for the project's corridor selection process. For example, the preliminary study corridors depicted in Exhibit 4 were first introduced at Minnkota-sponsored public meetings in the spring of 2009.

The refined Macro-Corridors shown in Exhibit 5 were introduced at the RUS scoping meetings in the fall of 2009.

And then the route segments and route segment alternatives to be analyzed in the Environmental Assessment, which are shown in Exhibit 6 and 7, were first presented at Minnkota-sponsored public open house meetings in the spring of 2010.

The proposed corridor, which is finally shown in Exhibit 8, was introduced during the winter of 2010 and, and '11, as the

preferred route identified in the Environmental Assessment.

It was then publicized in the project newsletter, on our website and in the Corridor application.

Now, Mr. Phillips, in following testimony, will discuss the proposed corridor in detail.

Q. And why is Minnkota requesting approval of a 1,000-foot-wide corridor for the proposed project?

A. By selecting the preferred route from the Environmental Assessment as the corridor for the Corridor application, we can demonstrate that the proposed corridor has the least overall impact within the wide study area.

Selection of this 1,000-foot-wide project corridor is a result of an extensive pre-application routing process and provides the best opportunity for more detailed analysis during this state review.

The Macro-Corridor Study and the Environmental Assessment process involve in-depth environmental analysis and multiple

opportunities for agency, tribal and governmental review and public input.

The 1,000-foot-wide project corridor is the same width as the route used in the Environmental Assessment.

Using a 6-mile-wide corridor for the state process, in my opinion, would be a step backwards in the project development process and it would not address the most asked question from these earlier meetings was: where exactly are you proposing to place the line?

As such, this narrower corridor provides an opportunity for more meaningful public input. A narrower corridor minimizes the possibility of the corridor being utilized for other projects after this project's approval.

And it also is consistent with the recommendations of the Commission in its letter response to Minnkota's request for routing guidance.

Q. And what were some of the factors Minnkota took into account in developing the proposed project corridor?

A. The two primary factors that we considered were to avoid cropland and occupied residences.

Q. And were there other factors that were evaluated?

A. The other factors evaluated in selecting the criteria were avoiding irrigated cropland where possible, rural airports and airstrips, avoiding identified recreational, historical, archaeological or other culturally significant areas when possible.

And also avoiding potential disturbance to rare and endangered species of plants and animals.

We also considered minimizing impacts to shelterbelts, wooded areas and other areas of conservation and ecological importance.

We also strive to minimize effects on designated waterfowl production areas, game management areas and wildlife refuges.

We strived to minimize interference with extraction of economic minerals.

And also to minimize engineering, construction and maintenance hazards.

We also considered coordinating and planning with existing wind easements along the corridor. Following existing eas -- right of way, survey lines and natural division lines and agricultural field boundaries, when all -- when feasible.

One of our criteria was enhancing electrical reliability of the transmission system and also adhering to the North Dakota Public Service Commission exclusion area and avoidance area criteria.

Q. And I believe you testified that as project manager you oversee right of way acquisition. Is that right?

A. Yes.

Q. What steps is Minnkota taking to acquire right of way for the proposed project?

A. The project team is currently negotiating with landowners to obtain easement options.

Within the 1,000-foot-wide corridor, Minnkota will seek from landowners a 150-foot-wide easement within a wider one -- 500-foot-wide easement option area.

Q. And so what is the difference

between an option and an easement?

A. An option is an agreement with the landowner for the future right to acquire an easement.

The right to acquire the easement must be exercised within a specified time.

An easement is a right granted by the landowner to use a specific piece of property for a specific use, for a specific length of time.

Q. And why is Minnkota acquiring easement options at this point rather than easements?

A. Well, acquiring options at this time allows Minnkota to begin the right of way acquisition process, at the same time it pursues the required permits.

But this helps to limit Minnkota's financial investment in case the permitting process necessitates a change in the right of way location.

The 500-foot-wide option gives the landowner and the right of way agent some limited flexibility. As a, as a team, they can request the design team to review the exact

location of the final 150-foot-wide placement within the permitted easement.

Q. And are the easements that will be obtained for the project limited to a specific purpose?

A. Yes. To allow Minnkota Power to install and maintain a single transmission line system and no other purposes are, are included or allowed.

Q. And how are easement payments determined?

A. For this project, a land basis value for each county was calculated. We considered and compared recent sales records for each county.

We also reviewed the USDA National Agricultural Statistics Service Data compiled, again, on a county-by-county basis.

We also considered impacts from other similar projects within the area.

And then compensations provided to the landowners is a combination of the land basis value payment for the overall area of the easement and a per pole payment.

Compensation takes into account

current land usage, the local market value of the land and the calculated acreage required for the right of way.

Per pole payment also take into consideration effects on farming practices.

Q. And why aren't annual payments, such as those that are provided for wind turbines, being offered to landowners?

A. We feel the situations are quite different.

In the case of wind farms, the developers and the landowners are harvesting a natural resource, in this case, wind, that produces a profit-generating revenue stream. This is not the case with transmission.

As a rural electric cooperative, Minnkota's rates are based on the actual cost to deliver the electricity. We are not a profit-driven enterprise.

While we take very seriously our obligation to provide fair compensation to landowners for easements, we also have an obligation to our rate payers and owners to keep electricity rates affordable, this means, keeping project development costs reasonable.

It's important to note at this time, we know of no other transmission utility provider in the region making long-term yearly payments for transmission easements.

And we also would like to note that the transmission and wind easements can co-exist, as long as there's a safe separation between the wind turbine and the transmission. They do not cause an issue with compatibility on the same property.

Q. And what activities will be restricted along the easement?

A. We will restrict placing permanent structures under the power lines, planting of large-growth trees, stockpiling of material under the line or any activity that creates a safety hazard to the line operations.

Q. And what impact on land use will the new transmission line have?

A. We do recognize that a utility pole creates an inconvenience when placed on tillable ground. However, Minnkota's selection of the steel monopole helps minimize these impacts by allowing installation of the poles without guy wires and minimizing the overall

footprint.

In addition, these structures allow a 1,000-foot spacing between the poles, which help limit the overall impacts.

Farm equipment will need to maneuver around the physical structure for seeding or harvest, but, again, with five structures per mile, this helps limit that impact.

And we also recognize that aerial applicators may need to modify their approach or fly parallel with the line for spraying.

Q. And what compensation will landowners receive for disruption of land use during construction?

A. Besides the permanent easement payment, we may arrange for temporary construction easements, if required.

We also pay crop damage payments. We pay for the first year of damage. And then we have follow-up payments for sub -- subsequent years.

We also pay land damage payments for nontillable land, very similar to crop damage payments.

And we also pay for gates and reconstruction of fencing, if it is damaged during construction.

Q. And what are some of the benefits of the project?

A. The primary benefits are access to increased base load generation to accommodate our future demand and load growth. And the additional grid reliability.

We also see long-term state and local tax payments that help fund community needs and infrastructure. These payments go to school districts and fire districts.

We also anticipate job creation for the construction phase of this project. Now the construction team will include 200 to 250 construction workers at our peak time. And we anticipate approximately 40 to 60 of these positions will be local hop -- hire opportunities, which may include the concrete supply and blat -- batch plant work, civil work for road construction and maintenance, the tree clearing and, and fence construction.

And also nonspecialized labor for traffic control and the land restoration

process.

Other construction stimulus to local economies include expenditures for product and services, such as hotels, restaurants and fuel from local suppliers.

Q. And based on the studies and analyses conducted and on the testimony you have presented today, what are some of the conclusions Minnkota has reached regarding the proposed project?

A. We believe this project is the best possible solution for delivering additional base load generation to Minnkota's service territory and also improving the reliability of the region's electrical network by solving a known voltage stability issue in the northern Red River Valley.

And we also believe, through the -- that through the required federal review process, which included in-depth environmental review and numerous opportunities for stakeholder and public input, Minnkota has developed a viable 1,000-foot-wide corridor.

This proposed corridor meets North Dakota's siting requirements and will result in

the least overall impact of the alternatives considered.

In addition to providing the additional base load generation and grid reliability, the project will bring long-term economic benefits through state and local tax payments and short-term stimulus through construction jobs and related expenditures.

MS. SMITH: I have no further questions.

MR. WAHL: Mr. Sagsveen?

CROSS-EXAMINATION

BY MR. SAGSVEEN:

Q. I apologize if I missed this in your testimony, but what was the width of your Macro-Corridor Study?

A. The Macro-Corridor was based on several 6-mile-wide sections.

So there was some areas that were wider than 6 miles, but every, every area of the corridor was at, at least 6 miles wide.

Q. And you indicated a, a 6-mile corridor would be a step backwards, and you indicated a number of reasons. One, because

other utilities -- or the corridor could be used by other utilities. Is that one of the reasons?

A. Once a, it's our understanding, once a corridor is approved, then that, that corridor may be used by other, you know, projects, without going through the corridor review process.

Q. And so the, the oth -- another reason was that smaller is better, because you could provide a more detailed analysis overall in the entire project?

A. Well, that's correct. By, you know, selecting three viable routes in the Environmental Assessment, each one of those routes met the North Dakota PSC siting criteria. So we did an extensive analysis of that 6-wide -- 6-mile-wide study are -- area, by selecting those three routes.

And then the further analysis of determining which one of those routes provided the least overall impact, also provided that continuing narrower -- narrowing of the research.

Q. Is it your opinion that the, the

areas that were studied varied to such a de -- a degree, that there was a, a large variation within a thousand-foot segments or was it more of a, a, a large -- I mean, like a 6-mile -- from, from mile to mile it varied to a significant degree, the land and the, and the farmland areas? Or it was a, more a larger base Mac --

A. I think the Macro-Corridor Study, you know, identified, you know, the, the constraints in the overall 6-mile-wide area.

The challenge is, is, to narrowing that 6-mile wide, is to find routes that minimize passing, you know, within 500 feet of occupied residences and also avoiding or avoidance and, and -- criteria.

Q. So under some circumstances, a, a wider, a wider corridor may not be a, a bad thing? Wider than a thousand feet?

A. Well, certainly not in, in -- at the beginning of the process, to identify which areas of that corridor would support a route that, that meets the North Dakota PSC siting criterias.

Q. If, if you had a slight -- a wider

criter -- corridor in some circumstances, it would give you a little more flexibility if you needed it?

A. That is correct.

In this separate process where we, we, we --

Q. I, I don't think I asked a question --

A. Okay.

Q. -- on that.

A. Okay.

MR. SAGSVEEN: But I don't have any further questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions, thank you.

MR. WAHL: Questions from the Commission?

Commissioner Cramer.

MR. CRAMER: Thank you.

In, in hearing your testimony now three times, I feel the need to, to clarify something with regard to this topic that, that you're just being examined on.

Specifically to the, to the letter requesting guidance and the Commission's

response to that.

I want to be clear that in the letter from the Commission clarifying this request for a 1,000-foot corridor, you've referred to advice of preference and the letter refers to a preferable approach.

Is the preference for a 1,000-foot-wide Corridor application from the Commission a preference to a, a wider Corridor application or a preference to a 1,000-foot Route Permit application?

THE WITNESS: The specific guidance was, we asked to consider a 1,000-foot-wide route in -- during the route permit process.

And the Commission -- and that, that was based on, on the difficulty of, of presenting to the Commission at the route hearing time, you know, the exact pole placement for each pole during that, and a, in a combined process, that's the level of detail that you're required.

In the separation of processes, you know, that you asked for, we then asked for this 1,000-foot-wide route consideration, you know, so that we could present that data and,

and give us the flexibility of working with the landowner as we continue to secure landowner easements for that final pole placement, so that through the hearing process that that data wasn't required.

After considering that request for the thousand-foot-wide route, your recommendation was to request a 1,000-foot-wide corridor during the Corridor application as preferenced over the 1,000-foot-wide project.

MR. CRAMER: All right. Thank you. I have nothing further.

MR. WAHL: Further que --

Commissioner Kalk.

MR. KALK: Just a, I guess a question for the, for Mollie, if you will, the -- when we, we talked to -- before about this -- were you going to be submitting a summary of public comments?

MS. SMITH: Yes, we did, Commissioner, we submitted that. We filed that I believe on Tuesday.

I also have copies with me, if you want that. And it is a summary of the topics and it shows then the --

MR. KALK: Okay.
MS. SMITH: -- numbers for each.
MR. KALK: So I need to grab that from --
Did you look through that yet?
Okay. We'll, we'll take --
MR. SAGSVEEN: I haven't --
MR. KALK: -- care of that, all right. Thank you.
And I did have one question, I guess, for the witness.
If -- you heard me talk to previous witness about benefits from folks within about 75 miles, give or take, of this region.
What benefits would you say that residents around here would, would get from this transmission line?
THE WITNESS: Well, I think any investment in a transmission asset of, of this, of the size of this project benefits the whole region.
Typically, you know, the transmission system is a shared infrastructure. And we keep track of energy that's basically put into the electrical grid and we keep track

of energy that's taken off of the electrical grid.

But anything, you know, in between the region basically benefits on a regionwide basis, from additional infrastructure.

The addition of this asset does change the flow of, of electricity on all the other transmission assets. So there may be benefits that can be identified through study that shows that additional capacity on existing lines may, may be the result of the addition of this transmission asset.

MR. KALK: Okay. What about, Mike, you talked about the benefits for sales ta -- or not sales tax, tax payments, jobs. Would that -- would tho -- those also be shared by this region as well?

THE WITNESS: That's correct. We pay on a per mile basis, so each county is, is calculated and that goes back and is distributed on a per county basis.

MR. KALK: Okay, thank you.

That was all I had.

MR. WAHL: Further questions from the Commission?

MR. CRAMER: Yeah.

MR. WAHL: Commissioner Cramer.

MR. CRAMER: This is just for information, but -- i -- ironically, I was in Cando last weekend and I bumped into a Towner County commissioner that wondered if we could reroute it through Towner County for that very purpose.

But I said no.

But thank you.

MR. WAHL: Any further questions, comments by the Commission?

If not, Ms. Smith, refresh my recollection. Thi -- this summary of public comments, did we identify that as an Exhibit for the hearing at the previous hearing?

MS. SMITH: We did not identify it as an Exhibit. We indicated that we would provide it. We can provide it as an Exhibit, what -- but we're not intending to file it as a formal Exhibit.

MR. WAHL: Commissioner Kalk, did you request that information as an Exhibit to be part of the record?

MR. KALK: Well, that was

something -- I guess the clarification, we didn't requi -- or I didn't request it as an Exhibit, I -- but I did want to see the information.

I guess as long as the Commission received it and we can con -- include it in the record, that was my only concern.

MR. WAHL: Well, --

MR. KALK: And so that's a part --

MR. WAHL: -- then, --

MR. KALK: -- of -- I don't know that that was --

MR. WAHL: -- then you should proceed to offer it, please.

MR. KALK: And while we're on, your Honor, the, the discussion --

MR. WAHL: Aah.

MR. KALK: Okay.

MR. WAHL: Let me --

MR. KALK: Finish.

MR. WAHL: We get confused.

We're not really good at multitasking in hearings.

MR. KALK: That's what my wife tells me, too, your Honor.

(Whereupon, Exhibit No. 22 was marked for identification.)

MS. SMITH: I have it marked.

And for those that do not have a marked version at this point, it is marked as Exhibit 22.

MR. WAHL: That's fine.

MS. SMITH: And I am -- Mike, if you would take a look at what I've handed out as Exhibit 22. Could you just identify what that is?

THE WITNESS: Yes. This is a summary report that we track on a weekly basis of the comments that the project receives. It identifies the source of the comment. And we break down the topic of the comment as well.

MS. SMITH: And so I would offer Exhibit 22.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: Are these comments -- these are in addition to what's been documented in the, in the Permit application?

THE WITNESS: The Permit application does include these, in, in the

counts. I mean, the, the comments that we have submitted in the, in the application are included in this count, so all the comments received are included.

MR. SAGSVEEN: Are all of the agency -- and by agency, is that, is that state and federal?

THE WITNESS: Yes.

MR. SAGSVEEN: Are all of the agency comments included within the application?

THE WITNESS: I, I got -- I would have to defer that to Mr. Hunker to, to answer that, but I believe so, yes.

MR. SAGSVEEN: I don't, I don't have any objections to this Exhibit.

MR. WAHL: Exhibit 22 is received.

Now, Commissioner Kalk.

MR. KALK: Exhibit -- I guess the, the same kind of question I would -- probably for the next witness about the, the contact at University of North Dakota, just as a heads-up, as we get into that one.

MR. WAHL: All right. Any -- anything further from the Commission?

Anything further, Ms. Smith?

MS. SMITH: No, your Honor.

MR. WAHL: Okay. Mr. Sagsveen?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No, your Honor.

MR. WAHL: All right. I'm going to recess for lunch. It -- it's a bit early, but the next witness is lengthy, as I recall, and this seems to be the best time. I'm, I'm not --

I'm sor -- I'm sorry, Mr. Hennes, thank you. Thank you very much.

THE WITNESS: All right.

(Whereupon, the witness was excused.)

MR. WAHL: I, I don't want to interrupt the testimony of a witness if I can, so let's recess for lunch until 12:15. 12:15, please. We still have a ways to go.

Let me say, also, that if anybody would like -- has any questions for me and any documents to mark, I'm, I'm going to stay here with my newspaper during the lunch hour, the, the 45-minute lunch period. So I'll be glad to

visit with you then and mark any documents you have, answer your questions.

(Whereupon, a lunch recess was taken at 11:41 o'clock a.m. to 12:32 o'clock p.m.)

MR. WAHL: Let's be in order, please.

(Whereupon, Mr. Jerry Lein is not present.)

MR. WAHL: Let's be in order, please.

All right, Commissioners, I propose to take a witness out of order, to vary the order approved for the hearing.

The witness, Mr. Rodney Peterson, has a commitment to travel by airline from Bismarck this afternoon and cannot spend more than about another hour here.

And I said, well, in that case, I would propose to take the -- take his testimony out of order.

Ms. Smith, any objection?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Peterson, will you come forward, please?

Please be seated. Be comfortable.

MR. PETERSON: Thank you.

MR. WAHL: Mr. Peterson, please state your name for the record.

MR. PETERSON: Rodney Peterson.

MR. WAHL: And your last name is spelled?

MR. PETERSON: P-e-t-e-r-s-o-n.

MR. WAHL: Mr. Peterson, what is your residence address?

MR. PETERSON: 412 Bismarck Avenue; Wilton.

MR. WAHL: Is that also your post office address?

MR. PETERSON: That's -- Box 96.

(Whereupon, Mr. Jerry Lein entered the room.)

MR. WAHL: Mr. Peterson, do you speak for anyone, any group or organization, anyone other than yourself or --

MR. PETERSON: Just --

MR. WAHL: -- your family?

MR. PETERSON: Just myself and

family, yes.

MR. WAHL: All right. Mr. Peterson, your testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the oath.

Perjury is a false statement of material fact which you do not believe to be true.

In North Dakota, perjury's a class C felony, punishable by a fine up to $5,000, imprisonment for a period of up to five years or both.

Will you raise your right hand, please?

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

MR. PETERSON: I do.

R O D N E Y P E T E R S O N,

being first duly sworn, testified on his oath as follows:

MR. WAHL: You may proceed.
MR. PETERSON: Well, I have a question. Well, my land description is in Burleigh County, in Painted Woods.
MR. WAHL: Okay. Let's see if we can locate that for the Commissioners and everyone.
Let's reference, if you will, Exhibit 12 alpha.
And, Mr. Peterson, that Exhibit is in front of you, the, in the large book. Yeah, you have it. Okay.
MR. PETERSON: Uh-huh.
MR. WAHL: And we see the -- we see Painted Woods Township.
Have you got that located? Here.
MR. PETERSON: Here.
MR. WAHL: Okay. Now, then, Commissioners, on Exhibit 12 alpha, that -- in Painted Woods Township is -- to the east of the river.
Right where the, the corridor jogs up at about, at about a 45-degree angle and then levels off again.
Right above that is -- you see

Section 14 and right below the corridor is Section 23.

That's the area that Mr. Peterson is going to be talking about.

Am, am I, am I --

MR. PETERSON: Yes.

MR. WAHL: -- correct, --

MR. PETERSON: That's correct.

MR. WAHL: -- Mr. Peterson?

MR. PETERSON: That's correct.

MR. WAHL: Okay. Now you may proceed again, sir.

MR. PETERSON: If you see at the bottom of included map of which you have, it shows they come from the southwest, on the west half of Section 23, across the section line, to follow along the south edge of Section 14, and then back across the section line, line again to the south.

I don't know why they can't come up to the section line and go straight east, instead of going up onto mine and then back down again. Just to -- on one quarter section of land.

To me, it doesn't make any sense.

And it, it involves a tree grove and spring and all this stuff. Where they could go, come up to that section line and go straight east, instead of jogging up, go about three-quarters of a mile, then jog back down again.

I see no reason for this.

And I hope you agree.

MR. WAHL: All right. Does that conclude your, your statement, sir?

MR. PETERSON: Yes.

MR. WAHL: Ms. Smith?

MS. SMITH: I have no questions, your Honor.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I have no questions, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: I'm not quite following the --

MR. WAHL: Yeah.

MR. LEIN: -- jogging that you're talking about.

MR. PETERSON: Yes.

MR. WAHL: It's because --

MR. PETERSON: Do you --
MR. WAHL: -- our map is a little, is a little too large.
But go ahead, Mr. Peterson, see if you can explain.
MR. LEIN: So we crossed the river at Section 23.
And then we go at an angle all the way across --
MR. PETERSON: On, on --
MR. LEIN: -- Section --
MR. PETERSON: -- the angle.
MR. LEIN: -- 23.
MR. PETERSON: And then you get up on Section four -- it'd be --
MR. LEIN: 14.
MR. PETERSON: -- si -- 14. And --
MR. LEIN: Then follow, kind of --
MR. PETERSON: And, and, --
MR. LEIN: -- follow --
MR. PETERSON: -- and then it turns and goes east about three-quarters of a mile and then drops back down across the section line again, to going east. I don't know why they have that jog in there.

Why are they jogging up for that three-fourths of a mile, you might say, instead of going straight east on the south side of --

Just south of Section 24.

They're already on the south, south side, but they jog up into 24, then you jog back down again. I see no reason for that.

So I'll surely pass this map around if anyone wants to see my map.

It's more of a detailed.

MR. WAHL: The difficulty, Mr. Peterson, is that you're working with a different map than Exhibit --

MR. PETERSON: Yeah.

MR. WAHL: -- 12a.

Now, the only way we can really do that is if we take your maps and make them an Exhibit, which means that you will not have them.

MR. PETERSON: That's fine, uh-huh.

MR. WAHL: All right.

MR. PETERSON: Because there should be a bunch of these floating around out there.

MR. WAHL: Do we need, do we need both maps or just one?

MR. PETERSON: You, you --
MR. WAHL: Do we need, do we need both of these maps or is -- does -- everything you're talking about on just this map?
MR. PETERSON: Right there.
MR. WAHL: Okay.
MR. PETERSON: Right there.
MR. WAHL: I see.
MR. PETERSON: I do, I do have a copy of it.
MR. WAHL: Oh, you do. Well, --
MR. PETERSON: But that's a better --
MR. WAHL: Okay.
(Whereupon, Exhibit No. 1, Peterson, was marked for identification.)
MR. WAHL: Mr. Peterson, I'm handing you what has been marked for identification as Peterson Exhibit 1.
And will you tell me -- well, first of all: where did you get this document from?
MR. PETERSON: I think from Minnkota Power, yes.
MR. WAHL: Okay. And what does the, in general terms, what does the document

show?

Well, let me ask you: does it, does it, does it include the area of land owned by you and show the corridor for the proposed transmission line?

MR. PETERSON: Yes. I, I -- the, the corridor on my land and the adjoining land south, --

MR. WAHL: All right.

MR. PETERSON: -- from the south.

MR. WAHL: And would this Exhibit help you explain your testimony to the Commission?

MR. PETERSON: I believe so, yes.

MR. WAHL: Ms. Smith?

MS. SMITH: Can I ask one question, your Honor?

MR. WAHL: You may.

MS. SMITH: Mr. Peterson, I -- are you -- does that depict the corridor or does that depict the 500-foot easement proposed on your land?

MR. PETERSON: Oh. That's the 500 feet and they narrowed that down to 150 feet, where the placement of the line is.

MS. SMITH: Okay. So that's the proposed right of way for --

MR. PETERSON: Right.

MS. SMITH: -- the project, --

MR. PETERSON: Uh-huh.

MS. SMITH: -- not the corridor?

MR. PETERSON: The corridor'd be much larger than this.

MS. SMITH: Okay.

MR. WAHL: So -- but it also shows -- it shows the corridor and -- it doesn't show the corridor at all?

MS. SMITH: It's just -- the corridor is wider than that.

MR. WAHL: I stand corrected.

So this shows the proposed right of way requested from Mr. Peterson?

MR. PETERSON: Right.

MS. SMITH: Within the corridor.

MR. PETERSON: Uh-huh.

MS. SMITH: With that clarification, I will not object.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I don't have any objection as you've described it.

MR. WAHL: Exhibit Peterson 1 is received.

Now, Mr. Lein, that may help you.

So your, your specific concern, Mr. Peterson, is with the proposed right of way for the transmission --

MR. PETERSON: Yes.

MR. WAHL: -- line?

MR. PETERSON: Yes.

MR. WAHL: All right. Mr. Lein?

When you're ready.

MR. LEIN: As -- so as I'm looking at this, it looks like the red would be the, the right of way, the 150-foot and the blue would be the 500-foot?

MR. PETERSON: Yes.

MR. LEIN: And then they have the line poles, placements in green dots.

And it looks like they went north just a little bit of the, of the section line, into Section 14.

MR. PETERSON: Yes.

MR. LEIN: And did you want them to not do that or --

MR. PETERSON: Not through that.

I, I just didn't see any reason why they want to put two poles in agriculture land. They say they want to stay on pasture.

And going that route, they have to put two poles out in one of my fields. And then go across up there to do it. And then get past that and they'd be bac -- go back down to the south side of the section line.

MR. LEIN: Okay. Okay.

MR. PETERSON: It just doesn't seem feasible to me or why this is done.

MR. LEIN: I guess we would have to ask Minnkota to explain that later, --

MR. PETERSON: Okay.

MR. LEIN: -- so --

No further questions, thank you.

MR. WAHL: Questions by the Commission?

Commissioner Cramer.

MR. CRAMER: Thank you.

Thank you, Mr. Peterson, for being here and for your testimony.

One of the things I notice, and I'm, I'm able, on the computer, to, to bring this a little closer. I, I still don't see the

-- I'll still have to sort of correspond it with, with the right of way, but --

Is there, is there a body of water or a creek that runs through your land that, that this line crosses?

MR. PETERSON: Right about where those trees are, right below that, there's a little creek there.

And where the trees are, you can't walk up that.

MR. CRAMER: Okay.

MR. PETERSON: And it's so steep. And there's native poplars and ash and grapevines. So it can't be replaced.

And it -- even though the 150-foot corridor or right of way or --

MR. CRAMER: I understand.

MR. PETERSON: It would still extend over 50 feet into that tree grove.

MR. CRAMER: So in addition to the farmland, there's a -- it impose or it intrudes upon that feature as well? Is that what you're saying?

MR. PETERSON: It, it -- pardon?

MR. CRAMER: So in addition to, to

being on your farmland, this jog to the north, if you will, also further intrudes upon that feature?

MR. PETERSON: Yes, yes.

MR. CRAMER: Is there something about that area that might make this actually easier to -- for crossing than if they'd stayed south?

MR. PETERSON: Not that I can see.

MR. CRAMER: Okay.

MR. PETERSON: I can't see any reason for it.

MR. CRAMER: And that's for them to answer, but I'm --

MR. PETERSON: Yeah.

MR. CRAMER: -- just kind of curious at this point.

MR. PETERSON: It's, it's all pretty much the same type of land.

MR. CRAMER: Sure.

MR. PETERSON: And except I do have a field there. It'll be two towers in there.

MR. CRAMER: Okay.

MR. PETERSON: But then they jog back down to go on east. So I don't know.

MR. CRAMER: Thank you, I, I have nothing further. Thank you.

MR. WAHL: Commissioner Clark.

MR. CLARK: Thanks.

And thanks for your testimony.

MR. PETERSON: Uh-huh.

MR. CLARK: So whether it's on Section 14, or the section right below it, 23, is it, that's both your land --

MR. PETERSON: No.

MR. CLARK: -- right of way?

MR. PETERSON: No.

MR. CLARK: Okay.

MR. PETERSON: I hate, I hate to testify against my neighbor. Well, it just sets neighbor against neighbor.

MR. CLARK: Yeah.

MR. PETERSON: Friends against friends.

MR. CLARK: Okay.

The -- you've expressed these concerns to Minnkota?

MR. PETERSON: Yes.

MR. CLARK: Have -- what's the response --

MR. PETERSON: Or, or to the --
MR. CLARK: Or to their agents?
MR. PETERSON: To the agents, yes.
MR. CLARK: Okay. The, the response has been -- have you had a response or --
MR. PETERSON: Well, the person out in the field told me that they'd give me a letter guaranteeing that they'd never bother those trees.
I never got a letter.
And then they wanted access to do some more surveying.
I said: I've never got my letter, but -- I don't know if I should let you in.
Okay.
And so then, a few days later, they wanted access to do some bore samplings.
I said: wait a minute. My attorney says, don't sign anything until after this meeting, which we're at now today.
And I said: and you know my stand on harming these trees and all this.
So I asked him if he'd -- if they did any trim -- bore sampling on my neighbors.

No.

But I found out that they did.

From my neighbor.

So it's really --

MR. CLARK: Okay. But you haven't gotten a rationale for why they believe that this --

MR. PETERSON: No.

MR. CLARK: -- is the right side of the section --

MR. PETERSON: No.

MR. CLARK: -- as opposed to the other side of the line.

Okay. Thanks, that's all I've got. Thank you.

MR. WAHL: Further questions from the Commission?

Follow-up, Ms. Smith?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen, --

MR. SAGSVEEN: No.

MR. WAHL: -- any follow-up?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Anything further.

Mr. Lein, anything further?

MR. LEIN: Just, just one.

So your problem with it is related to the trees and the cropland or --

MR. PETERSON: Well, it's the cropland and the tree -- I, I, I hate to see that native old grove --

MR. LEIN: Okay.

MR. PETERSON: -- go out of there. You know, it's something that you aren't going to -- they say they'll replant two for every one.

MR. LEIN: Uh-huh.

MR. PETERSON: But on a na -- native stand like that, it's, what, 70-degree slant. I don't know how you'd ever get anything back in there.

MR. LEIN: Uh-huh.

Okay, thank you.

MR. WAHL: All right, then, quickly, one more time. Any -- anything further from the Commission?

Anything further, Ms. Smith, at this time?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen, --

MR. SAGSVEEN: No.
MR. WAHL: -- anything further from you?
MR. SAGSVEEN: No.
MR. WAHL: Thank you very much, Mr. Peterson.
MR. PETERSON: Thank you.
MR. KALK: Travel safe.
MR. WAHL: Have a, have a good trip.
MR. PETERSON: Oh, it isn't a trip, but I -- a little misunderstanding, I got to meet this plane to get someone from it.
MR. KALK: Oh.
MR. WAHL: All right. Well, either way.
MR. PETERSON: Thank you, though.
(Whereupon, the witness was excused.)
MR. CLARK: I hope they have better luck than I've had this week.
Or he won't be meeting them.
MR. WAHL: All right. Ms. Smith?
MS. SMITH: I'd call Duane Phillips.

THE WITNESS: Good afternoon.

MR. WAHL: I note for the record, Mr. Phillips, that you have testified in previous hearings had for this case.

And you understand, of course, that your testimony continues for this hearing under oath and subject to penalties of perjury?

THE WITNESS: I understand I'm under oath, your Honor.

D U A N E P H I L L I P S,

called as a witness, being previously first duly sworn, was examined and testified on his oath as follows:

MR. WAHL: Ms. Smith.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Could you please state your full name?

A. Yes, good afternoon, my name is, is Duane Phillips.

Q. By whom are you employed?

A. I am employed by Stanley

Consultants.

Q. And what's your business address?

A. My business address is 8000 South Chester, and that's in Centennial, Colorado.

Q. And could you discuss briefly your ed -- education and your work history?

A. Yes. My education background is in nuclear engineering and electrical engineering.

I have been in, in, in the power energy business for just over 32 years, that's in generation, transmission, substation and, and also distribution, so all aspects.

I've got 24 years of ex -- of project and construction experience, including the designing, building and operating high voltage power systems.

And I've been a project manager now for about 15 high voltage transmission projects, or about 750 miles.

Q. And what's your role with respect to the proposed project?

A. I am the project lead for what we call the engineering team. And, and we've been involved in some of the system study work, some of the early project conceptual work, the

corridor selection process, preliminary design, aerial survey and ground survey activities.

We've done a detailed electrical analysis and, and study work. We've done technical fieldwork out there. That also includes the right of way acquisition and process.

You know, that also includes the detailed engineering and design. And then, and then it will ultimately include construction management and support.

Q. And could you please describe the structures that will be used for this particular project?

A. This project, the vast majority will be a single pole, self-supporting, self-weathered steel, single-circuit structures that'll be placed on concrete drilled pier foundations and they will be placed approximately 1,000 feet apart.

Q. And will any special transmission structures be required?

A. Yes. There are a couple of areas to where the typical design we have is, is just not going to work.

One is, getting across the Missouri River. That span is upwards of 2600 feet, so we will need taller poles for that.

Those will be upwards of 200 feet, about 205 feet, is what they look, look like right now.

And then there's an area that is just south of, of, of, of the Grand Forks airport, where there's a nonprecision approach surface there that, that limits us in height, to the height of the other transmission lines in the area, which is 62 feet.

Q. And I would direct you to Exhibits 10a and 10b, which have been previously admitted and are also depicted on the boards that are next to you.

Using those Exhibits, could you explain more a little bit about what is depicted and what is -- what the structures will be?

A. Yes. Exhibit 10a is, is pictures or renderings of, of what the typical structures will look like.

On the left-hand side of Exhibit 10a is the, the typical monopole or, or tangent

structure.

And on the right-hand side of Exhibit 10a, 10a, is, is the dead-end monopole, or, or the angle structures where we change, change angle and change direction.

On Exhibit 10 bravo, on the left-hand side of that Exhibit is, is the H-frame type that we will use just south of the Grand Forks airport, through that height-restricted area.

And then on the right-hand side is, is what the, the Missouri River crossing structures will look like on the east and west side.

Q. And what types of conductors or wires will be used for the project?

A. For each one of these, there are two classifications, if you will.

The first is the conductors, which is three sets of phase conductors. Each, each one of, of the phase conductors consists of two 959.6 Suwannee trapezoidal wire, which is ACSR type. It's about 1.1 inches in diameter.

And then the phase conductors is what actually has, has the energy or, or the

load flowing across it.

The other classification is at the, at the top part. And those are shield wires. There will be two shield wires up there. Those are there for lightning protection.

One will be an optical ground wire, which is fiber optic cable wrapped, wrapped with stranded steel cable.

And then, and then the other one is a one-half, is a half an inch in diameter stranded steel cable.

Q. And what is the typical right of way width and why was that width selected?

A. The right of way width is 150 feet wide, as, as mentioned earlier. And, and that right of way width is, is wide enough so underneath the, the worst weather condition that we analyze for, that safety to the public, anywhere on that right of way, is ensured.

Q. And will a different right of way width ever be used for the project?

A. Where we go across the Missouri, we may require some additional, some, some, some wider area right of way in that area, due to the longer span.

There's also a number of, of areas where the right of way is placed across property lines, but that easement width will only be 150 feet and it'll just end up being shared.

Q. And what factors are considered when designing a transmission line such as this proposed project?

A. Any time we look at transmission line design, there's a number of factors that go into it.

First is, the, the amount of power that needs to be transferred across.

Another is, the type of power and what system operating conditions exist at either one of the endpoints.

One is the corridor and route impacts, such as, such as spanning water bodies, the ground terrain, those type of things.

Another is impact to land use. So, so, so how large of footprint of the foundations and the poles themselves take up.

Another is environmental impacts such as wildlife, cultural, historical,

archaeological, all of those types of impacts.

Another is constructability. What's going to be our access and, and what do we need to do. Can we actually build the line.

And then, lastly, long-term operations and maintenance. So, so when we do have to go out there, what, what access will there be.

Q. And why is the transmission line not being placed underground?

A. When we talk about high voltage transmission lines, right now, the technology does not exist to place a line of this length underground and actually be able to connect it up to, to the transmission side on either side.

So, so it's just not technically possible at this point in time to put that line underground.

If, if we had that ability, the impacts to, to the land, in terms of, in terms of the, the environmental impacts, would also be much more significant. The construction impact would be much, would be much larger as well.

And then it's also very costly to

place things underground as well.

Q. And besides the transmission line structures and the conductors and the shield wires, what are the other components of the proposed project?

A. Well, we have, we have added equipment and modifications that need to be made to the Center 345 substation, the Square Butte 230 substation, the Prairie 345 substation. And then we're going to need to place four fiber optic regeneration repeater stations.

And then we will have to do upgrades, also, to the 230 kV tie line between the Square Butte and Center substations.

And we'll need lay-down areas. We have -- we, we will need five temporary lay-down areas for the storage of equipment and materials.

And then as we get into construction planning, a little bit more detail, there, there may, may require additional areas for the construction contractors as well.

Q. And what are some of the typical

questions or concerns that are raised with respect to transmission lines?

A. We get asked a number of questions through our project experience and through the public meetings that we had.

One is the impact of the construction activities to land. What impact will it have on land. What -- what's really going to occur.

We also get asked about limitations of, of the use of land by landowners once the line is completed.

We get asked about EMF and health impacts.

We get asked about impacts of, of an operating line to wildlife and livestock.

We get asked about stray voltage. We get asked about induced voltage.

And we get asked about impacts to GPS and, and, and precision farming activities.

Q. And I believe the first issue that you raised was impact of the construction activities. What are the concerns associated with construction activities and what is the project doing to minimize those concerns?

A. Well, there are a number of things that we get asked about associated with construction activities once we get to that point.

The first one is compaction of, of, of the soil out there. And we have placed in the construction contracts that, that those contractors are liable to come back through and, and do decompaction of, of the soils using, pardon me, using deep soil techniques to get all the compaction out.

Another one we get asked about is public safety around the excavations. The foundations will be very, very large and those holes are deep, so we have, we have put a plan so, so that any foundations that are excavated get filled in with concrete and, and the foundation actually poured the same day.

And even while they're out there working, they'll have safety measures, such as fences and, and barriers to prevent livestock, pets, people, from getting too close and falling in.

We get asked about interruption of land use activities. And each one of the

construction and the contractors out there will have, will have a landowner liaison working for them. And we'll also have the right of way agents out there.

And they're going to be working to inform the landowners when construction's coming through, what they can expect and work with landowners to minimize the interruptions as much as possible.

We get asked about, about disturbing sensitive areas.

All the construction contractors are trained up to identify the areas. And all of those areas will be marked and identified before the construction contractors get out to the field.

We get asked a lot about road maintenance. And we will go out and do existing conditions and, and determine what the road conditions are.

We have contractually obligated the construction contractors to maintain those roads, whether that be dust control, rutting, those kind of things. They'll maintain it while they're out there.

And at the end, when construction has been completed in that area, we'll make sure that those roads go back to preexisting conditions.

And that'll all be monitored by the construction inspectors that we'll have out there during construction activities.

We also, also get asked about road traffic flows. So, in other words, where's the heavy equipment going to be.

We will have road traffic plans that, that let landowners and the public know where the construction activity's going to be, what weeks will be, what roads will be out on those, so that, so that everybody knows where the construction is going on.

Q. And the second issue that you raised was the limitations of land use by the landowners once the line is completed.

Can you tell us a bit about what landowners can expect in terms of the use of their land after the transmission line is in operation?

A. The landowners have full use of, of the land in between the structures.

You know, and those will be, again, about a thousand feet apart. And throughout the right of way width.

The restrictions that were talked about earlier, really is all based on maintaining safety in regards to, to the line.

So, in other words, not getting anything, whether it be tall trees or buildings, within a close proximity and following the safe electric clearance to the energized lines.

Q. And what then are the safety concerns and limitations to landowners once the line is in place?

A. Really, the only safety concerns are all around the safe electrical clearances. In other words, getting too close to the energized wires.

Reasonable and, and, and expected operations, such as driving agricultural equipment underneath the line, or, or anything of that nature, is not going to present a problem.

Q. And you mentioned EMF and the potential health impacts. And I know we are

going to have a -- an expert witness that's going to talk about this in a few minutes, but did you prepare a report for the -- for EMF related to this project?

A. Yes, we did.

Q. And that's Exhibit 11 that's been previously admitted. Is that right?

A. That is correct.

Q. And why was this report developed?

A. Well, we understand that E -- EMF, the electric and magnetic fields is a topic of concern to the public and landowners with, with regards to, to transmission lines.

And, pardon me, field levels from operation of a line are a consideration in, in how we design the structure. How tall those structures are and what the phase spacing is on those as well.

And it really allows us to compare field levels to other operating lines and also other out -- outside studies and research as well.

Q. And could you discuss the findings that are set forth in the EMF report?

A. Yes. The calculated levels for

this line are at or lower than what a typical 345 transmission project is. And that really confirmed for us that we have no need of additional mitigation.

Also, the calculated field levels for the area of greatest concern, which is at the edge of the right of way, are well under any known recommendations.

Q. And you also mentioned stray voltage. Is stray voltage an issue for transmission lines?

A. No, it is not. Stray voltage is, is something that kind of gets confused with EMF sometimes.

Stray voltage does not come in any way, way from transmission lines, so it is not a, is not a concern and not applicable.

Q. And I, I think you also mentioned impacts to GPS in precision farming activities. What will the impact of having a transmission line be to GPS and other precision farming methods?

A. There aren't any impacts from an operating line to GPS and precision farming.

The operating characteristics and

the amount of power have been looked at, studied over the last few years. They have no impact on the ability of GPS equipment or, or precision farming activities to link to satellites. The wavelength of the frequency signal strength are not impacted by power lines.

And, and just, just to bring it out, but we did have an -- expert testimony that, that was at the Northwood hearing that talked about this in detail.

Q. And I think the last was induced voltage. What is induced voltage and how is it a concern?

A. Induced voltage is voltage generated in objects that are in close proximity to any energized equipment.

If a voltage were to be induced into the objects and those objects were not grounded, there is a possibility that a charge could be built up. And then if, if somebody touched that, then there would be a mild sensation. So it's a lot like walking across carpet and, and touching something and getting that static electric feeling.

Induced voltage will be evaluated for the entire length of the line, and any objects that are near the line. And we will mitigate and, and, and put into place mitigating methods to ensure that, that the induced voltage will not build up. And that's normally just grounding the object that's in close proximity.

Q. And we heard earlier from Mr. Hennes about the process of developing the corridor. Can you tell us what was considered from an engineering and design perspective during the process of developing the specific corridor location?

A. Yes. From an engineering perspective, we looked at three different levels, if you will, to consider for, for where the location of the corridor needed to go.

The first one is the endpoints. So, so, so we had to identify where, where the western terminus was and the eastern terminus. And we heard testimony on that earlier.

Another one is, is to look for critical points that exist along, along any potential corridor.

And we identified two critical points. One was of the Missouri River crossing. The other one was the crossing across the Sheyenne River. And then the third level was then, was then out of the public meetings, getting the landowner information and feedback.

Q. And based on Mr. Hennes's testimony, I understand that Minnkota took into consideration the exclusion area and the avoidance area criteria that are set forth in the Commission's rules. Is that right?

A. That is correct.

Q. And were the selection criteria set forth in the Commission's rules considered by Minnkota when selecting the proposed corridor?

A. Yes, they were.

Q. And were the policy criteria set forth in the Commission's rules and considered and utilized, were they considered and utilized to the extent possible by Minnkota when selecting the proposed project corridor?

A. Pardon me.

Yes, they were.

The project meets a number of the

policy criteria preferred by the Public Service Commission and is consistent with the objectives to be compatible with environmental conservation and efficient use of resources within the state.

Q. And, finally, were the factors set forth in North Dakota Century Code Section 49-22-09 considered when selecting the project corridor?

A. Yes, they were.

Q. And now I wonder if you could walk through the project corridor for the Commission. And we're focusing, again, on this particular portion of the corridor.

MS. SMITH: And just to give a road map, we will, Mr. Phillips will talk about the corridor that's on this end of the project, on the western end.

And then we will address some of the other issues and specific areas that have been raised either in other hearings or earlier in this hearing.

And we will be using Exhibits 12a through 12j, which were previously admitted. And we will be putting those up on the boards

as well.

A. I would actually like to begin out with Exhibit 4, which is the preliminary study corridors. And it shows the corridors, or, or at least the preliminary corridors in the entire width of the project.

And so earlier, what we had talked about was, we had to understand what the endpoints were.

So, so on the left-hand side of Exhibit 4, is, is where the power is coming in at, at the Center substation. And the other endpoint, as was testified to earlier, was, was just outside of Grand Forks, at the Prairie substation.

And then we mentioned that we had to identify the critical points. And, again, one of the critical points was, was where we were going to go across the Missouri River. And then the other one was where we were going to go across the Sheyenne River between Cooperstown and, and the Finley area, over on the right-hand side of Exhibit 4.

And then taking a -- taking an overview look at Exhibit 4, we have a number of

environmental things considered to find that least impacting corridor along the area.

So we had this large area that is in, in the bottom portion, that is called the Prairie Pothole Region, with, with a number of dense wetlands and larger water bodies in there.

And then, and then there were a number of considerations associated with how, how then do we connect those points.

So in terms of the specific areas, I would direct everybody's attention to Exhibit 12 alpha.

Again, here, when, when we look at this, we were really driven by the Missouri River and, and where we were going to go across the Missouri River to have the least amount of impact.

So if we begin at the Center substation, we had to get, we had to get north of the Wilbur Boldt Wildlife Management Area and find a corridor that minimizes the impact to some of the occupied residences up there.

We were also challenged on, on the south side, with a number of existing

transmission lines that exist down there and not having to go across those multiple times.

And then we get to the Missouri River crossing, which, again, with some agency input and, and landowner input, the least impacting area was in between an existing 345 line and, and the 250 kilovolt DC line that was referenced earlier.

And then from, from there, the challenge for us, in terms of corridor, became the Wilton area.

On the right-hand side of, of Exhibit 12a, we can see that Wilton exists up in there and the township. And just south of Wilton, to the east side of U.S. Highway 83, there, there is an -- a, a large existing wind farm over there, so that was a challenge.

And, and there was not a good corridor or -- to get through that area.

Again, kind of going back to Exhibit 4, we wanted to avoid that Prairie Pothole Region that we talked about before. So that, that then drives the corridor to go north.

So we are, we are going east off of

the Mississippi (sic), making a, a turn north to get across, to, to get across Highway 83 there, and also avoid the occupied residences in that area.

Going to Exhibit 12 bravo, we are basically now just moving up north, trying to get up in, into the Mercer area, to just give everybody kind of a landmark on that.

But, also, looking at how we were going to go across the East Lake and West Lake Recreational Areas as well and trying to find the narrowest path there.

If, if you look on Exhibit 12 bravo, over to the left side, there's a number of wildlife designated areas. On, on, on the right side of that, that, there's also another number of wildlife designated areas that we had to move in between. So that's, that's how that corridor selection in that area became.

The next Exhibit 12 Charlie, now we come up just south of Mercer, there's a wildlife manag -- that's a wildlife management area there that we needed to avoid. There's an existing 230 kV transmission line that, that we need to, to avoid.

And we looked for a route that would, that would get us up north of the Highway 200 corridor area and, and where we could, where we could make our way through and, and avoid occupied residences and prime farmland.

In terms of this area, the McClusky Canal widens out around the McClusky area, so we, we also had to find a narrower crossing point for the McClusky and the North Country Trail as well. And so that -- that's what drove us to go further up north.

Going further north from there, in, in the middle of 12 Charlie, kind of on the right-hand side, you can see that, that, again, there's a number of large wildlife designated areas that are in, in that.

And we were able to have conversations with Sheridan Ridge wind farm area, which is being planned along the Prophet Mountains region, and that's the region on Exhibit 12 Charlie where, where we have the diagonal portion there.

So with the, the wetland, wetland bodies that we had in that area, and, and with

the Sheridan Ridge wind farm planned to coexist with them and be compatible to their planned wind farm, the diagonal approach worked out very well through that area.

And, really, for the rest of 12 Charlie and, and going on to 12 delta, pardon me, really the drivers through this area are, are the number and the location of the wildlife designated areas.

You can see on 12 delta that there is a very large area to the top center of that Exhibit. And there are a number of areas where, where we have a proposed corridor that would keep us from shifting north or south through those, through those areas, so --

And, really, pretty much from, from this point and, and -- and those are the Exhibits I'll go over at this hearing, unless anybody wants to talk about something else, but --

In this east-west portion, once we get up and around that Prairie Pothole Region, then, then it was driven by finding the least impacting corridor that got us from, from that Prophet Mountain region, if you will, across

the McClusky Canal and got us to the other critical crossing that we had, which was at, at, at the Sheyenne River.

Q. (By Ms. Smith) And then could you explain for the Commission the, the corridor, the slight corridor modifi -- modification in Painted Woods Township? And I believe that's Exhibit 12a.

A. Yes, that is Exhibit 12a.

The changes that were made in, in the Painted Woods Township, the most recent ones, since the application went in, was right at the eastern angle that was there, where, where we go east through the southern portion of Painted Woods and then turn north.

When we had put in the earlier corridor, you know, it looked that we could pull that angle to point a little more east.

Once we got into looking at the existing 345 line that goes through there, we had to shift that turn point a little bit back out west. And it took us just a little bit outside of the proposed thousand-foot corridor, so we had to make that adjustment.

Q. And did you hear Mr. Peterson's

earlier testimony?

A. I did.

Q. And could you address some of his issues or his concerns regarding that particular area, also in Painted Woods Township, that's depicted on Exhibit 12a?

A. Yes, I will.

In terms of the corridor placement through the Painted Woods area there, that's really driven by the Missouri River crossing and the requests that we had with, with a meeting with Painted Woods Township.

One of the corridors we were looking at originally went, went across the Missouri River, went into Section 14, which Mr. Peterson was talking about, and then went north and then east. So it was basically paralleling 1804.

And Painted Woods Township had asked us to, to make a consideration to go east and then north, which is, which is, is where we have the proposed corridor at this point in time.

So that was, that was one of the things that we took a look at.

The eastern side of this, again, is really defined by the wind farm and, and the city of Wilton, for why we couldn't go more, more east on that.

And I think it's important to talk about the sequence of events here.

We had the Painted Woods Township meeting December 18 of last year, which asked, asked us as a project team to look at that east and then north alignment, which we told them we would take a look at and talk to the landowners out there.

Mr. Peterson was at those meetings.

And then the project discussed that that proposed corridor shift with the proposed landowners who were out there, and they seemed very, very open to the idea, receptive of that.

And we have met with Mr. Peterson three times now to talk about different alternatives through, through that southern portion of Section 14. There, there was a meeting back in March, one in April and one in May, May 5.

And as Mr. Peterson talked about, the, the issue, or the area of greatest concern

is at a gully area, for lack of a better term, that has those existing tree coverage there.

In, in the conversations, in, in that area, and it's kind of hard to see on Exhibit 12a.

Q. I'm going to show you, then, what's been marked as Exhibit 23.

A. Excuse me.

Thank you.

Q. And could you identify Exhibit 23 for us?

A. Exhibit 23 shows, in, in the upper left-hand corner, it, it shows a picture which was taken April 14 of this year, looking from where, where one of, where, where one of the proposed structure locations may be located looking east.

The one in the upper right-hand corner is, is a picture from, from the same area, looking west.

And then the drawing on the bottom is a, is a rendering of the aerial photography showing the section line through that area and giving a little bit more detail on that low-lying gully area that is in there.

Q. And were these photos that are depicted taken at your direction?

A. Yes, they were.

Q. And have you seen the area where Mr. Peterson lives and that's depicted in these photos?

A. Yes, I have.

Q. And are these photographs a -- an accurate depiction of what is in the area on Mr. Peterson's land that's at issue?

A. Yes.

MS. SMITH: And I have no -- I -- I'm just with -- going to offer Exhibit 23. I have no further questions --

MR. WAHL: Mr. --

MS. SMITH: -- on that.

MR. WAHL: -- Sagsveen?

MR. SAGSVEEN: I guess I don't have an objection for the Exhibit, except for the fact that, you know, it's difficult to know exactly what Mr. Peterson's concerns are. There's a -- with respect to these pictures.

But --

MR. WAHL: Exhibit 23 --

MR. SAGSVEEN: -- I --

MR. WAHL: -- is received.

Q. (By Ms. Smith) And, Mr. Phillips, could you then explain what, what was discussed by Mr. Peterson, what his concerns were and, and what is depicted in these photos?

A. What I believe Mr. Peterson's concerns are from listening to his, his, his presentation earlier is, I would direct your attention to, to the picture that's in the upper right-hand corner of Exhibit 23.

As, you know, as you're looking at that picture, there is an orange lath that, that is in, in the ground. And as you look just a little bit to the left of that, and then kind of down the grade there, you will notice that low-lying area. It -- there's a number of trees.

Again, this was taken in the middle of April. You, you can see snow cover in that area. That is that low-lying area that I called a gully. You know, that Mr. Peterson was talking about.

And the challenge we have going through this area in, in both Section 14 and Section 23, was, was finding a corridor that

could go through here that has the least amount of impact on it.

We don't want to unnecessarily take out vegetation or, or, or tree cover any more than anybody else does, but when you look both north and south on, on there, if we were to, to zoom in, if you will, in both Sections 14 and Section 23 in this area, this is the narrowest path and, and looked to us to be a good opportunity of, of going through this area.

Now if you look at, at the bottom picture that is on Exhibit 23, we've identified a couple of dimensions.

Now the blue line that runs, that runs left to right is, is the Section 14, Section 23 section line.

You can see that the southern most trees that are in that, in that bend, the ones that are most evident to the left side of that orange stake in, in the picture in, in the upper right-hand corner, are, are approximately 105 feet off of the section line.

The Exhibits that Mr. Peterson brought up, I, I believe it was labeled Peterson Exhibit No. 1, is, is a part of the

easement and option conversations that we are having with landowners.

So what was earlier testified is that when, when the right of way agents sit down with the landowners, they're bringing it, an Exhibit in that, that shows some preliminary locations of where we would like to lo -- where we would like to locate the transmission line.

And it shows a 500-foot option bend that, that is on there.

So Mr. Peterson correctly identified that 500 feet. That 500 feet falls within the thousand-foot, foot corridor.

And, and we, we are in conversation with Mr. Peterson now.

So, so, you know, to make the statement that, that what's on the Exhibit is exactly where things are going to go, it, it would not be accurate.

I mean, we are in conversations with a number of landowners still. We are still in, in the process of the routing of the actual facilities and being able to have those conversations with landowners.

So that is what it -- what, what

was on his Exhibit that was there.

Q. And just to, just to go back to his concern about the trees and the clearing of trees. What is the intention, as far as, at this point in time, as far as tree clearing and vegetation clearing and all of that, his concerns?

A. Well, again, if we go back to Exhibit 23, you will notice that we've annotated in the lower picture there, that, that the southern portion of, of the trees on the most recent option that we have been discussing -- or, or the most recent alternative, excuse me, that we've been discussing with Mr. Peterson, that, that the southern portion of the trees would be about 45 -- pardon me, 48 feet from, from where our -- the proposed centerline would be.

So they're not, they're not right underneath the line.

Minnkota's policy is, is that any tall-growing trees in that area would need to be removed, so the -- so that they don't become a safety hazard to the line and to, to the landowner that's out there.

But we have told Mr. Peterson that we will, we will go out and evaluate what, what kind of trees are out there.

It appears from the preliminary, that, that most of the trees are not tall-growing trees, so it -- so right now, the, the intention is not to go out and take out all, all of those trees, but the intention is, is only ones that could present a hazard some, somewhere down the line, some of the taller-growing trees.

Most of the ones that are in the low-lying area, at least from our preliminary look, would not have to be touched at all. But because they are down in that, in that low-lying area and are not going to -- you know, you know, they're not going to pose a problem.

Q. And we've --

A. And I --

Q. -- kind of -- I'm sorry, go ahead.

A. And just to mention a couple of other things that are in there.

That, that Peterson Exhibit 1 does show that that right of way is straddling the

section line a little bit. And that's our effort, to, to try to, to try to have a conversation about trying to get this, again, so, so, so we're taking out the least amount of vegetation that's in there.

And I would also point out that through this Painted Woods Township corridor, that we have, 82 percent of the parcels are already under option.

So, so the vast majority of the landowners are happy with that thousand-foot corridor that we have going through the Painted Woods area.

Q. Now we're going to shift and we're going to go from west to east. And at the Carrington hearing, there were some issues raised in Eddy County. And I wondered if you could also address the issues in Ed -- Eddy County that were raised previously?

A. Sure.

In the Eddy County region -- and let me get to the right Exhibit. That should be Exhibit 12 foxtrot.

There was, well, several landowners that got up, and there was a number of

questions associated with the east-west portion through Eddy County, where the proposed thousand-foot-wide corridor is, is just north of the Eddy-Foster line.

And for those that are looking at the Exhibits, if you begin basically in, in the middle of Exhibit 12 foxtrot, there is, there is a jog to the south of almost a mile. And then it goes east just north of the Eddy-Foster County line, through that area.

Some of the corridor factors that were in that area is the north side was identified by two cultural areas on, on the western side of that run and large water areas in, in the Columbia Township areas.

So you can see on the Exhibit, in, in the lighter blue, or aqua color, that there are a number of large water bodies that are up in that area.

Really, the south side was defined by Grace City and very large water areas in Lake Juanita and Stony Lake, more on the east side, or on the right-hand side of that Exhibit.

And there is also a number of

center -- or -- pivot irrigation that is just north of Lake Juanita. And, and those are shown by the green, the darker green circles that are there.

The corridor was sited past, through this area with the least impact to occupied, occ -- occupied residences that were out there.

And, and we believe that the proposed thousand-foot-wide corridor maximizes the distance from occupied homes within this corridor area.

If you look at, at the number of homes in there, we are, we are, we are proposing a thousand-foot-wide corridor that really maximizes the distances, whether those homes be on the north side or those homes being -- be on the south side.

There was a potential change that was brought up about moving to the north portion of the section lines. So that would, that would basically move -- we are running a thousand-foot-wide corridor on the, on the south side of the section.

So if you looked in the middle

where we do the jog south, we would, instead, jog a little bit north and run across the north portion of the sections.

And I know that there was at least one landowner that brought that up.

Some of the concerns that we have with that is, is that places three additional occupied residences within the thousand-foot-wide corridor. It places two unoccupied structures, grain bins, barns, those type of things, inside the corridor.

It creates a need to remove five additional areas of trees, whether they be tree rows, is mainly what's up in that area.

It also would create the need for us to design and engineer six speciality structures, which would have to go across the large water body areas. And, and those end up being taller, and, and with larger foundations in that area, that are going to have a greater impact to land use within that area as well.

It would also cause that corridor, and, and most likely the line, once, once the transmission line is, is routed through that area, to be within 500 feet of an occupied

residence, which is, which is one of the avoidance criterias.

That residence specifically is in Section 30, which is, pardon me, which is about in the middle of the run on the west side of Columbia Township.

So that is this residence basically right there.

That occupied residence, if, if, if we were to move north, would end up, would end up being within 200 feet of, of a most likely centerline of the transmission line.

Also, when you look at all the homes through that area, moving that corridor north significantly lowers the distance to the majority of the homes that run through that area based on where their placement is.

And we have been working with the landowners, especially the landowner that is, that is where that southern jog is. We have been working with landowners in this area and have had a number of conversations with them to try to adjust this east-west corridor and, and talking about a potential centerline through this area to get, to get, to get that, you

know, to the most, the most beneficial for landowners, while, at the same time, having the least amount of impact in here.

Again, through this portion, we've got -- approximately 59 percent of the landowners are under option through this area. And that tells us that the majority of the landowners through this portion are pleased with where we have the corridor located.

Q. And then I think the last area that we're going to discuss here is the alkali flats area that the Commission had asked us to re-examine that particular area.

Could you address, you know, what selection factors were -- came into play in selecting that area and having -- I guess I should ask: have you analyzed this again for the Commission?

A. We had a chance after both the Northwood hearings and the Carrington hearings that were last week to, over the weekend, and the early part of this week, go back and look at this, this alkali flat area that's in Grand Forks County, that's on Exhibit 12 Juliet, or 12j.

The area that we are, are talking about that was identified was the area that is along where we have a, a proposed diagonal through that area.

The selection factors that went in, that went in to why we put the corridor where we did in Grand Forks County was, was staying west of the existing WAPA 230 kV line. And that's, that's what we are paralleling through this diagonal, that would be shown on Exhibit 12j as the purple line.

So staying west of that means we only have to go across that line one time, instead of having to go across that three times.

So, in other words, if we continued east, we, we would have to go over the line and then we'd have to turn north and we'd have to go over that line again, again. And then we'd have to turn east and, and possibly go over that line again.

And, and multiple crossings with the same transmission facility gets into operations and maintenance and, and reliability issues as well.

The eastern side was, was, was really defined by the higher density of occupied residences, which we talked about earlier.

And also on the impact to a high quality agricultural area wi -- with very good prime soil conditions in that area.

And, again, on both those occupied residence and the prime tilled farmland, were, were areas that we wanted to try to avoid as much as possible.

A nondiagonal corridor location was looked at, but it was a challenge due to the alignment of the English Coulee retention area, which creates large water bodies for a large portion of the year.

The English Coulee is shown, really, by this black area, or the darker area, that, that runs across both the WAPA 230 line and where the proposed corridor is.

That is a flood retention area that is out there that the Grand Forks Water Board has, has put into place.

And in conversations with the Grand Forks Water Board, that was the -- that was

their recommended area to go across, based on how the water lays out in those areas and what kind of flooding goes out there.

We also looked at this and, and the, the soils out there are, are not good agricultural quality.

The -- that area has no designation as an avoidance area. It presented a much reduced impact to the project corridor than other potential options in the area and which would have alignments much closer to occupied residences. And, and then, again, that high quality soil condition.

We believe that there's no reasonable alternative that, that would result in greater land use impacts and proximity -- that would not result in greater land use impacts and proximities.

This also prevents causing additional fragmentation of the area by closely paralleling the existing transmission line, which, which in conversations in avian areas, such as across the Missouri River, we have been asked by agencies to parallel existing lines out there, as that prevents a, a lower impact

or a lower obstacle towards, towards, towards avian migration and flying in the area.

The farmland in this area of, of the Red River Valley is, is considered particularly important in terms of high productivity. We heard that from, from a number of landowners that were, that were in that area.

In terms of sequence of events, this was brought up at one of the public meetings in, in Grand Forks. We did do an investigation in the area and, and that showed us that there were no designations in that area, with the conversations that we've had with a number of agencies, including U.S. Fish and Wildlife and North Dakota Game and Fish. This section has never been mentioned as a concern area related to the project.

We, we did have conversations with the Grand Forks Water Board related to this area and they deemed the diagonal approach as being very positive.

And the conversations with landowners in that area have been very positive as well. We're, we're at 77 percent of options

through this area.

And, and when I talk about area, we did not have a map in the earlier part of the week that clearly identified alkali flat versus nonalkali flat, so we basically went from a couple miles back from where, where we make the diagonal, went up through the diagonal, all the way up by that large water body, and went about halfway over toward, towards Grand Forks, just to make sure that we were all inclusive through that area.

So, again, we do have very high landowner support for that area as well.

Landowners both east and west of, of any other option, whether it be a route segment or, or, or when we were talking about where to place proposed corridors within the Macro-Corridor, showed a very high level of opposition. And that was really based on impacts to tilled land and the quality of that tilled land out there.

We are planning on putting in, in to place a number of mitigation measures. I believe we've talked about a number of these earlier, but, but just to list them out again.

Again, the transmission line and the structure design and, and then the siting, are all in accordance with the Avian Power Line Interaction Committee, which is APLIC, suggested practices to minimize impact to, to avian travel, whether it be bird collisions or, or, or other avian practices.

The construction will be outside of the typical nesting and breeding season. You know, so we'll do off-season construction through that area.

Marking of the transmission line with bird flight diverters to, to reduce the potential for bird collisions, again, in accordance with APLIC.

There will be -- we will minimize disruption of native prairie grasslands by not mowing through that right of way. Tree removal, if any, will be minimized through that area.

We will use, we will use helicopter construction methods to, to bring the wires in, which'll, which'll also minimize construction activities.

And then we will revegetate

promptly with native, native plant seed stock.

In the event that we do have to go out there for any reason, that is not after -- or, or not in that off-season, we'll have a qualified biologist conduct ground nest surveys of the area and set up a buffer for any nests identified of -- to ensure that we have no disruption of nest -- nesting activities.

We do not believe the paralleling of the existing WAPA line is, is a concern from reliability for a number of reasons.

One is, is it is a very short distance. Another is, both those lines are, are -- have different terminus points, so, so they go to different substations. And when -- that plays a part in the reliability analysis.

Our line is being constructed to withstand extre -- ex -- extreme weather conditions. And if there's a maintenance issue, that line is, is close to Grand Forks and Minn -- Minnkota's maintenance crews, which also reduces the reliability concerns.

There were a number of segmental alternatives that were, that were looked at in this area.

One, one of the ones that we looked at, or, or the segmental alternatives shown in, in both -- shown in the Environmental Assessment, showed us that it crosses significantly more agricultural land and farmland. It was approximately 2 and a half miles longer than what we have proposed, so there's more land and more landowners impacted.

It'll require one more angle structure, which, again, drives up the impact because those have larger foundations.

And then -- and this has two paralleling opp -- opportunities to get those corridors relatively close together.

We also looked at utilizing portions of, of the EA identified routes, A, B and C, you know, whether we could look at different portions or, or I believe it was deemed a hybrid approach.

Utilizing portions of the other routes in the EA would change the whole eastern end. You know, which most of the landowners engaged in the recent discussions over there have not been a part of, of those since the EA analysis. So they haven't had an opportunity

to weigh in, if you will.

The area of concern that we're talking about, the alkali flats area, so it makes sense to focus on the area rather than re-evaluate a larger segment of the corridor.

The routes were extensively analyzed in the EA and Route A, which is the basis of the proposed project corridor to the North Dakota Public Service Commission, was the one that had the least overall impacts on it.

The project corrid -- corridor satisfies all of the siting criteria set forth in the siting act and, and the Public Service Commission siting rules. And there are no other options that would reduce or change the impacts to the Grand Forks area -- or the Grand Forks airport, through that area.

MS. SMITH: I have no further questions.

MR. WAHL: Mr. Sagsveen?

CROSS-EXAMINATION

BY MR. SAGSVEEN:

Q. As much as I would like to ask you about a Suwannee trapezoidal wire, I can't

think of a question.

You used the -- when you used the word mitigate in your testimony, in, in reference to electrical fields, and I, I think it was your study -- I forget what Exhibit it was.

A. 11.

Q. Do you do -- if you -- if a -- an electrical field problem arises, is that something that you mitigate post or -- preconstruction or postconstruction?

A. If you had identified that you were going to have higher than, than normal electric fields, or, or magnetic fields, there are things that we can do with the structure design, whether that is height aboveground, the configuration of, of how the phase conductors relate to each other.

There are some design measures that we can make that would, that would help to reduce the electric and magnetic fields seen on, on the right of way.

So, so there would, there would be things that we could do, but those would all be preconstruction.

Q. So you, to some extent, you don't know all of the potential impacts until it's constructed, though. Is that correct?

A. I don't know if that's a fair characterization. I think with the amount of studies and, and, and with, with the engineering calculations that we've shown, that those estimates, which are based on engineering practices, as set forth by the, by the Electric Power Research Institute, or, or EPRI, that those are very accurate estimates that are in there.

So we have no reason to believe that the estimates that are written up and in Exhibit 11, are not the estimates that we'll get when the line, when the line is placed in operation.

Does that answer your, your question?

Q. I think it does.

A. Yeah, okay.

Q. With respect to the Missouri River depth of your, of your footings, are the -- your -- have you identified locations that you might use as footings or are you waiting for

the, maybe the route to be further located?

A. We have identified potential locations for where we might place those river crossing structures and have had some, some early preliminary conversation with landowners on both the east and west side.

The landowners seem to be amenable to what, to what we are proposing through that area, so they've been very good conversations.

In terms of the size of the foundations at the Missouri River crossing, one of the things that we base foundation design on, both width and depth of the foundation, is what the soil conditions are.

With, with this being such a critical area and, and with this being such a large, large structure, we would want to take the geotechnical soil samples right where we were going to place the foundations.

We did not come to agreement with the landowners and, and really figure that out in time to be able to, to get down to the Missouri River area to take those geotechnical soil borings. And, and right now does not appear to be a good time to get them either.

So once we get those, we'll, we'll, we'll be able to determine exactly what the foundation size are.

I anticipate with the river soil conditions that we are expecting to have in there, that those are going to be, those are going to be large foundations and they're going to go very deep.

Q. Okay. Just one more question.

After the, after the line is constructed and everything's, and the, and the power's turned on, I guess you could say, do you go in and then remeasure your electrical field calculations to verify the -- your preconstruction field estimates?

A. Yes, we will. We will take field measurements at, at designated points. We have not selected those points yet, but we will take field measurements before any construction occurs, so, so we understand what the background levels are out there.

And then once the line is in operation, we will go back and take field measurements. We'll, we'll redo the calculations based on the amount of loading on

the line, because that impacts, that impacts the magnitude of, of the magnetic field. And then we'll go back and make sure are estimates are right.

Q. Okay.

MR. SAGSVEEN: No further questions.

MR. WAHL: Mr. Lein?

MR. LEIN: Yes. I've had -- looking at 23 here and -- Exhibit 23, and Mr. Peterson referred to some cropland that the structures would be placed in I think. Does -- I don't see any cropland on here. Is that -- am I missing something?

THE WITNESS: I have been out in the area two times. Both times were, were off-season times, so I cannot specifically say whether there is, is crop out there or not.

MR. LEIN: Okay.

Okay, it looks like rangeland.

And one other question on -- concerning the alkali flats area. That's a large wetland area, that it looks like you're getting into, in Oakville Township.

Are you needing special structures

to go through that?

THE WITNESS: The, the larger water body in, in Oakville is, is right next to the juncture where, where we go north and then turn east.

MR. LEIN: Yeah.

THE WITNESS: For those in the audience, it would be this area right up here, at the point there.

It -- it's a little hard to see from the Exhibit, because the red obscures some of the edges of that wetland area, but basically we are just east of that wetland area.

The corridor kind of goes a, a little, a little over the shore, over the edge of the wetland, but, but the majority of, of, of the corridor is outside of, of that wetland area, so, so we do not anticipate, through that area, having to have speciality structures in that area. We'll be able to get on a -- we'll be able to get -- we'll be outside that wetland.

MR. LEIN: And I guess I, I keep wondering, when we get through these wetland

areas like that, what are the chances of later having to move the line because the wetland will -- the water levels rose? And has that been thought of?

THE WITNESS: Yes, it has. For areas to where, to where we know the water level is rising or, or where we get closer to the wetlands, part of the wetland delineation tries to take, take into account the highest level that the water is in that area, so --

And we also put a safety margin in, in the reveal of the foundations.

So, in other words, the top of, of the foundation will not be placed right, right on the ground, it'll be a couple feet above the ground, which, which normally takes into account most of those changes.

In the case of, of where we're down in wetter areas, and this is a good example, the English Coulee retention system, which is on that diagonal, we have talked with the Grand Forks Water Board and asked them what their highest measured water level is, kind of like a hundred-year floodplain level.

And we design the foundations to

be -- we, we design so that the top of the foundations are, are higher than that hundred-year floodplain level.

Or, or whatever the highest water level mark is that we know about.

MR. LEIN: One other question with that area. Is -- looking back at the options considered, again, I think it was Exhibit 4, it doesn't like look you ever considered an option with the preferred Route A that extended south of your preferred route through that area, just sort of like straight across, across the bottom of Pleasant View Township and Fairfield and Allendale.

And then extended a right angle type thing, all the way up, which appeared like it would still then only cross the WAPA line once. We'd miss the alkali, I -- maybe miss the alkali flats area, I haven't seen the whole map yet, would miss your English Coulee completely and would miss that wetland I was just pointing out. And, also, I think, come in from a different angle around the airport.

So was that dismi -- looked at or dismissed or how -- what happened with that?

THE WITNESS: I think probably the best Exhibit to -- I'll go back to, Mr. Lein, for that, would be Exhibit 6.

Exhibit 6 does not have some of the detail, but it does show the route segment alternatives that we were looking for.

So on the right-hand side of Exhibit 6, you'll see that diagonal, which we, which we have, the proposed corridor is in a blue color.

And there are a number of red segment alternative options that are in that area that go directly east and they go, go north, or they go east, then kind of jog north a little bit and go east again.

So there were a number of segmental alternatives.

Also, if you look just a little bit west of, of there, you'll notice that there is more than one segment alternative that we looked at as well, with -- within that area.

So, really, going through that Pleasant View Township area that you reference. And I, you know, I need to go back to Exhibit 12j.

But going through Pleasant View, going through Fairfield, and even though we cannot see it, the townships below Sixth Avenue and Northeast, which is, which is the east-west road that we see on the bottom of Exhibit 12 Juliet, we, we get into some wetland issues, we get into some mining operations that are down there, we get into prime agricultural farmland and, and, and, again, occupied residences, so --

So we looked within the entire width of the Macro-Corridors, back when, when, when we were on step one and two of, of the process that Mr. Hennes talked about, we looked at, at finding viable corridors throughout the entire width. So it was looked at.

MR. LEIN: Okay.

Thank you, no further questions.

MR. WAHL: Questions from the Commission?

Commissioner Clark.

MR. CLARK: Just a few. Thanks.

The -- so I'm sure that I understand it correctly, you discussed stray voltage, induced voltage and EMF.

Now, I'll tell you how I understand the three and then you tell me where I may be erring.

Stray voltage, as I understand it, is where there's some sort of direct connection with an electrical source itself. So whether it's a manhole cover in a city or, or some other conductive equipment that actually touches the, the wire, it becomes energized. Is that stray voltage?

THE WITNESS: Yes, that's a, that's a part of stray voltage.

Stray voltage is really earth currents or ground currents that are, that are really not, not going where they ough -- ought to be going.

MR. CLARK: Uh-huh.

THE WITNESS: And so the leading causes of, of, of stray voltage are an improperly grounded system. And -- you know, now we're talking about the distribution system, --

MR. CLARK: Uh-huh.

THE WITNESS: -- which uses a neutral wire as, as, as the return path or an

unbalanced distribution system.

For instance, if you had two-phase or three-phase distribution systems, then you, you got an imbalance between the different phases.

Those are the two leading causes of, of stray voltage.

So stray voltage is a concern and, and it is something that needs to be considered when we're talking about distribution systems.

An -- and, again, there have been a number of work out there associated with stray voltage and its potential im -- impact to livestock and those things. And normally we see that those are grounding issues of the distribution system.

MR. CLARK: Okay.

THE WITNESS: Because the transmission line doesn't use a neutral, like a distribution line does and because, because by the nature of operation having a transformer on both ends, all of the phases on a transmission line are all going to be balanced.

So we're, we're not going to get, you know, that imbalance type, type stray

voltage, so --

MR. CLARK: Okay, thanks.

And then induced voltage is where there's something nearby, a, a transmission line or some other electrical source, that becomes energized and then, almost like static electricity, gives off some electricity. Is that right?

THE WITNESS: That is correct.

MR. CLARK: Okay. And that's just a proximity issue?

THE WITNESS: Yes. A good example of that would be, would be like a barbed wire fence that runs underneath the transmission lines.

If, if that fence is not, is not grounded, well, then there is, there is a potential for that fence to pick up induced voltage.

And, and it's just a matter of grounding of, of the fence and then, and then the issue goes away.

MR. CLARK: Okay. And then EMF is something else, and we'll hear about that later from a witness that Minnkota will be bringing,

correct?

THE WITNESS: Yes, you will, sir.

MR. CLARK: Okay.

In Mr. Peterson's testimony discussing the, the Painted Woods area.

He had asked a question about why does it -- aside from the ecological features that you've discussed, but he, he had sort of the general question of why does it drift into 14 and then back south, understanding that this is more the right of way than the corridor, but --

Be -- but even the corridor itself meanders just a little bit.

Why does it drift into 14 and then back out of 14 to the south before being hooked up and, and heading north?

THE WITNESS: The --

MR. CLARK: Is there something about 23 that's causing that to be avoided? Although, you cross 23 at a point, too.

THE WITNESS: No. It's, it's mainly a, a landowner input from the landowners in Sections 13, 16, 24 and 19, which make up the eastern portion of that Painted Woods

east-west section there.

So it -- it's not -- it's, it's trying to find a 150-foot easement path within the thousand-foot right of way that, that meets all, that meets, that meets and best serves all, all of the landowners through that area.

So, so, again, those are preliminary conversations and those are proposals that we've, that we've posed to landowners.

That, that doesn't necessarily mean that that's, that's where the route's going to end up, we are still working on that.

MR. CLARK: Is, is there a rationale or a reason that the landowners in that area, other than, you might just have a couple landowners, neither one that wants it, where 14 would be chosen over 23?

I'm going to have to admit that if you're just looking at the, the geography of it, you'd take the shortest route, which would appear to be, stay on the southern plain as opposed to crossing over into the north and then heading back into the south.

THE WITNESS: Again, I think, I

think the, the logic through Section 14 and, and 23, that, that, that, that interchange area, with us being across the section line there, it's not, it's not necessarily a, you know, a landowner concern, as much as it is the impact to that area, especially the low-lying area and finding the least impacting path through there.

You know, again, it -- if we went more north on Mr. Peterson's property, which was, which was one of the early proposals that we had from a design standpoint, --

MR. CLARK: Uh-huh.

THE WITNESS: -- that would have made the line -- that would have had less angle -- angles in the line and we wouldn't have to do a jog, if we went just a little bit more north on Mr. Peterson's property.

But then, then we angle through one of the thickest part of the trees in, in, in that low-lying area.

So, so it's been a balance to try to find the least impacting path through that area.

MR. CLARK: Uhm.

Yeah, I understand why you wouldn't want to go where you're trying to avoid going diagonally through 14.

And I understand the landowner input on that.

I -- but, again, I guess I'm just not clear on the issue of the drift into 14 just a bit and then the drift back into.

I don't know if it -- I can't tell from this map, and I don't have the -- it located as an Exhibit in front of me, but it appears, if I recall correctly, it drifts back into either 23 or 24 at some point.

THE WITNESS: Yes, it does. It moves to the south side of, of, of the section line. And, and we can't necessarily see the details of this on Exhibit 12 alpha.

You know, I think that, that when we're at the point of talking about the route hearings, we'll be able to have Exhibits that show, show much more detail through that area.

But there are a number of wooded areas. And, and, I'll be honest, I don't remember whether they're in Section 13 or Section, Section 18 that's in there.

But there are other, other rationale for drifting to the north side of Section 24 that have to do with impacts.

MR. CLARK: Okay. And you're right, and this -- we're getting kind of into route questions, perhaps, as much as corridor, but --

THE WITNESS: Oh, no, that's all right.

MR. CLARK: -- appreciate the conversation.

The -- you've mentioned the, the tree stand and that you're hoping that it's limited to some of the bigger trees, as opposed to most of them, which appear to be shorter trees.

Wouldn't, wouldn't that raise the concern, though, that you're taking the oldest growth trees? I mean, by definition, almost -- those would be the oldest, right?

THE WITNESS: Well, in that area, and, and, again, I'm not an environmental specialist and, and don't know a lot about tree species, but, but the feedback that I've gotten from some, some of the conversations, is that

the majority of the vegetation growing in that area is, is a lower growth, lower growth vegetation.

So, so if it's down inside that low-lying area, or even the, the majority that we see, that, that is right on the edge, on that upper edge, that might actually be inside the right of way, it, it, it, it would be far enough from where we are thinking of maybe putting the centerline there, that, that it may not be a safety concern and, and something we can evaluate.

So it's not necessarily the age of the tree, it -- it's, it's how high is that going to grow eventually.

You know, if, if it's going to grow to the point that it's going to become a safety concern, well, well, then, at some point in time that, that would need to be, that, that would need to be taken out of the right of way.

If it's not something that, that is, that is ever going to be a concern, well, then, there's no reason to take it out.

MR. CLARK: Switching to the, to the alkali flats area, which is on Exhibit 12j,

which you've testified some to.

I was wondering if there was ever consideration given for bringing the line up, I'm going to call it on the western half, or the western edge of Oakville Township, Fairfield Township, in that area, and not paralleling the existing diagonal 230 line that comes in, but, rather, somewhere in that western Oakville and Fairfield Township area, bringing the line up and then roughly paralleling the corridor that already exists with a, looks like there's a 115 and a 230 that come in directly from the west and just paralleling those lines right into the Prairie substation?

THE WITNESS: There was a consideration for that. Some of the challenges that we ran up against is, is if we run up to the west side of Fairfield and, and, and Oakville, again, again, prime farmland through that area.

Some of the other challenges that you have is running parallel with the existing transmission lines. Those are, those are terminating at the Prairie substation, through

that area, so that, that changes that, that reliability conversation of, of a long parallel. And it would be a longer parallel through there.

The other challenge was that large water body in, in the Oakville area.

Another challenge is coming up the western side there, brings us in to close proximity to the Grand Forks airport. And, and the challenge with, with height limitations that that might impose through that area.

And then, and then another one is, is if you look to the right-hand side, over by the Prairie substation, there's a, there's a large density of, of occupied residences, a home, that that existing 230 line goes basically right through, to where they've built right up next to the transmission line.

And, and, and with the avoidance criteria of 500 feet, it -- that was not, that was not plausible to get through that area.

MR. CLARK: Aren't you utilizing that, anyway, though? Effectively, I mean, the way it, --

THE WITNESS: No, --

MR. CLARK: -- it --
THE WITNESS: -- because we're --
MR. CLARK: I mean, --
THE WITNESS: -- we are --
MR. CLARK: -- you're a little, you're a little south of it, but you could just go over on that south, all the way to the western side of Oakville Township, couldn't you?
THE WITNESS: Oh. Yes.
MR. CLARK: I -- I'm looking --
THE WITNESS: It, it --
MR. CLARK: -- at that grouping of homes, you know, just to the west.
THE WITNESS: If we made the turn, I mean, -- I mean, the reason we didn't parallel or go more north or north of the 230 line, which was something that we considered, wa -- was those residences and those housing subdivisions there.
The reason that we can't take what we are, what we are proposing for the thousand-foot corridor is that large wetland in, in, in Oakville.
MR. CLARK: So you're saying

crossing that was difficult, if you were to cross it east-west?

THE WITNESS: Yes. That would be a --

MR. CLARK: Okay.

THE WITNESS: -- significant challenge.

MR. CLARK: It looks like the two -- the 115 and the existing 230 basically go through it right now, though?

THE WITNESS: Yes. And some of those lines have been there longer than the wetland have been there or, or longer than, than things like wildlife management, you know.

You know, if you go down in the Golden Lake area, and I know it's not on the Exhibit, the WAPA 230 line runs, runs right through some designated wildlife areas.

Well, well, the line was there and then they designated the area. So that's, that's why that line is there.

MR. CLARK: And then --

THE WITNESS: Or, or that's why, you know, it runs right through those designated areas.

So sometimes the transmission lines were out there and then, and then other things have occurred that, that have happened afterwards.

MR. CLARK: The -- but you're saying to bring it up basically 19th Street Northeast, right along the -- it looks like it extends -- it's hard to tell, but it -- it's pretty close to the wetland in the proposed route as well, right?

MR. CRAMER: Uh-huh.

THE WITNESS: Yes, --

MR. CLARK: But, but it's not, --

THE WITNESS: -- it is.

MR. CLARK: -- it's not actually through it? It's, it's, --

THE WITNESS: No, it is not, sir.

MR. CLARK: -- it's to the wes -- or the east of it.

Did, did you get any feedback from the, the Grand Forks Water Board on the, on the -- a, a line that would be brought up Fairfield, Oakville and then sort of east-west, right across the -- paralleling those other two lines? Did they make comments on that or not?

THE WITNESS: We did not ask the Grand Forks Water Board that specifically.

MR. CLARK: Or, or other local officials? I mean, not just the Water Board necessarily, but --

THE WITNESS: Yeah, that was, that was one of the, that was one of the areas that we ruled out early on. And I --

MR. CLARK: Okay.

THE WITNESS: -- do not believe we had talked to any agencies before ruling that out.

MR. CLARK: Okay, got it.

Thanks, that's all I've got.

MR. WAHL: Commissioner Cramer.

MR. CRAMER: I'd like to discuss some a little bit, Mr. Phillips, the Foster-Eddy County line there, over in Columbia Township.

You referenced earlier, in response to landowner testimony in Carrington, specifically Mr. Topp's farmstead, where he testified that there were, I think, he said eight families that are in that sort of campus of, of his farmstead.

Realizing you've, you've testified that -- well, you know, he'd asked if, if you could go north on the section line there and sort of go around, go over from the north, it's still his --

THE WITNESS: Uh-huh.

MR. CRAMER: -- property, but further from his home.

And you just, I think, testified earlier that doing that would impact three homes. Does that, does that sound right?

THE WITNESS: Yes. And that was running across the whole north portion.

So, in other words, in my testimony, when I was talking about those impacts, that would be basically taking that, that whole east-west section of line from Section 34 in Pleasant Prairie, all the way to Section 34 in, in Cherry Lake and moving that to the north side of the section.

MR. CRAMER: So, in essence, crossing the track -- railroad tracks right there and just continuing east?

THE WITNESS: Yes.

MR. CRAMER: Okay. What are the

ramifications of when you -- once you cross Section 32 in Columbia, to go -- going north there, then going east and then coming back down to the existing line somewhere, you know, either on the east edge of Columbia -- well, probably there, the east edge of Columbia, coming straight down, in other wor -- in essence, you're, you're creating a, a short jog around.

THE WITNESS: Right.

MR. CRAMER: What would be the ramifications of doing that?

THE WITNESS: The ramifications of making a jog of that manner would, would be, would be the wetlands that are there in Sect -- in the northeast portion of Section 34, the, the northeast portion of Section 35 and, and kind of the center portion of Section 36.

Measuring those wetlands there, they're all in excess of 1200 feet, so we wouldn't be able to use the typical structure out there, we would have to design a specialty structure, which is going to have a higher impact of that.

The net result of, of where we

would most probably locate a centerline through that area, only moves that transmission line approximately 180, 200 feet further away from, from that -- from those residences, that, that was brought up on the, on the eastern side of Section 34 and the, and, and the western portion of Section 35.

And then every time -- any time we add a jog in the line, you're, you're adding a significant cost to, to the line and you're adding higher impacts, because the angled structures have much larger foundations.

MR. CRAMER: Well, I, I understand that, but in this case --

THE WITNESS: Sure.

MR. CRAMER: -- you have the, you have the compliance of the landowner that's the same person in either route, so --

I mean, I mean, from an impact standpoint, I -- the cost, I realize is a different matter, but --

But while more difficult, certainly not overly challenging, I mean, you're crossing the Missouri River, for example, obviously, --

THE WITNESS: Right.

MR. CRAMER: -- that's a bigger body, yeah.

If you were to, if you were to entertain shorter variances or jogs like this, along the 250 miles, would there be a significant number of them?

In, in other words, you, you -- we had a, a landowner in this particular case that -- you know, with compelling testimony. How many more of those would there be if we were to start considering 4, 5, 6 miles work-arounds?

THE WITNESS: Are you asking -- you know, just to clarify the question. Are you asking how many landowners along, along the project corridor do we think that, that may want us to route around them?

MR. CRAMER: Well, I'm kind of asking that. The only thing I, I would clarify in this situation, again, is, in this situation, we do have a landowner whose land is impacted either way. You know, who's a, who's a willing participant with this minor adjustment. I mean, would there be a lot of those scenarios?

THE WITNESS: I don't have an, an exact number for you, but I believe that there would be a number of them, yes.

MR. CRAMER: Okay. I think I'll -- I know Ms. Thompson is probably going to testify again and, and we'll hear more about the -- she might be bringing the alkali flights -- flats area, so I have nothing further, but thank you.

MR. WAHL: Further questions from the Commission?

Commissioner Kalk.

MR. KALK: Thank you, Duane, for your testimony.

On 12d, Exhibit 12d. On the extreme eastern part of it, it looks like we've got a home right in the middle of the proposed corridor.

And it also looks like you've, you've already got a jog to the south there, a little bit, east of there. Why wouldn't you move the corridor just a little bit north, to move that home out of there?

THE WITNESS: The, the corridor through that area wa -- was basically put

together, you know, again, due to the wetland over in Section 32.

Could the corridor be moved a little bit more north; yes, it probably could.

And I would have to look up -- I don't, I don't have here what that residence is -- or, or who, who that residence is.

We have talked to a number of the homes that, that could potentially be within 500 feet and, and have gotten landowner's concurrence with that.

MR. KALK: Well, I would just say that since you're already jogging back to the south a little bit, that's -- there might be some opportunity there -- it'd be nice to, I guess, just -- so, so you don't know specifically if you've heard from that, that resident at all?

THE WITNESS: Not right off the top of my head, we could probably get that information, though, very quickly.

MR. KALK: Okay. That's okay, we'll just -- that's once we, we get into routing thing, that'd be one area to look at.

The --

THE WITNESS: Yes.

MR. KALK: Now, at this time, are you going to -- someone through that late Exhibit, from the testimony about who the point of contact from UND was?

MS. SMITH: Yes, that'll be another witness.

MR. KALK: Okay, fair enough.

And the same -- the, the discussion of -- similar with the -- your, your discussion with the Grand Forks Water Board.

So you said they preferred the route to run through the, the alkali flats, if you will? Tell me again how he -- what you said there. I -- I don't believe -- didn't catch --

THE WITNESS: We --

MR. KALK: -- all that.

THE WITNESS: We had -- once, once we had the corridors down to the three routes that, that were identified in, in the EA and, and what we have proposed here for the corridor, with, with discussions on the different options that were in the vicinity of the English Coulee retention system, the Water

Board thought that this was a better option than the other one, so we had looked at in that area.

MR. KALK: Did they give --

THE WITNESS: But --

MR. KALK: -- you a reason why exactly? More water storage or water movement or --

THE WITNESS: That had to do with how the water backs up in that English Coulee retention area.

One of the alternatives we'd looked at was going due east. And, and basically being more towards the eastern portion of that English Coulee.

And because of the terrain out there, that is deeper water and that's also where their spillway, their, their flow control and measures are over there.

And they, they preferred us to be more on the west and north side where we are, than, than on the east and south side.

MR. KALK: Okay.

Thank you.

MR. WAHL: Any further questions

from the Commission?

Anything further, Ms. Smith?

MS. SMITH: Just a couple of questions.

REDIRECT EXAMINATION

BY MS. SMITH:

Q. There were questions about the tree removal. Is it Minnkota's intention to replace those trees on a two-to-one basis?

A. Yes, it is.

Q. And as far as the H-frame structures that you would have to be using near the airport or near the Grand Forks Air Force Base, what kind of impacts would those have on farming operations?

A. An H-frame structure has a larger impact on, on farming operations. Instead of having the single, single pole, if you will, that goes down to the foundation, an H-frame, as depicted in -- I -- in Exhibit 10 bravo, has got two poles that come, come down.

And the distance in between those is, is not wide enough that, that agricultural equipment can get in, into that area.

So, so it ends up having a much larger footprint or impact on the landowner to have H-frame structures out there.

Q. And what's the spacing then between H-frame structures?

A. The, the spacing, and, again, I will direct everybody's attention to Exhibit 10 bravo, but the spacing is, is anticipated to be 26 feet between, between the center of, of one leg, to the center of the other, the other leg.

Q. Okay.

MS. SMITH: I have no further questions.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I have no additional questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions.

MR. WAHL: Anything further from the Commission?

MR. CLARK: No.

MR. WAHL: Thank you very much, Mr. Phillips.

THE WITNESS: Thank you, your Honor.

(Whereupon, the witness was excused.)

MR. WAHL: Let's be in recess until 2:30. 2:30, please.

(Whereupon, a fifteen-minute recess was taken.)

MR. WAHL: Let's be in order, please.

All right, Commissioners, I have a request from a -- another member of the public to testify out of order, Mr. Terry Weckerly, which -- who has a commitment to a 4-H affair, which seems to me to merit hearing him out of order.

Ms. Smith?

MS. SMITH: Your Honor, we just object on the grounds that we know everybody has to wait and these have been a long series of three hearings. And so, in that vein, we don't know that we think that it's appropriate to allow another person to go out of order.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I have no legal objections, your Honor.

MR. WAHL: In other words, you have

no objections.

I, I do not easily allow variance in the order of proof, but on the other hand, I recognize that there are commitments which outweigh the potential confusion. And a 4-H project seems to me to raise to that level.

So the objection is overruled.

Mr. Weckerly, would you please have a seat and be comfortable.

MR. TERRY WECKERLY: Thank you, your Honor.

MR. WAHL: Please state your name for the record.

MR. TERRY WECKERLY: Terry D. Weckerly.

MR. WAHL: And, Mr. Weckerly, spell your last name for the record, please.

MR. TERRY WECKERLY: W-e-c-k-e-r-l-y.

MR. WAHL: What is your residence address, sir?

MR. TERRY WECKERLY: 2911 Highway 200; Hurdsfield, North Dakota.

MR. WAHL: Is that also your post office address?

MR. TERRY WECKERLY: Post Office Box 145.

MR. WAHL: And are you speaking for any group or organization other than yourself and your family?

MR. TERRY WECKERLY: I'm speaking on behalf of me and my two sons, we have a family limited partnership that owns land.

MR. WAHL: All right. Mr. Weckerly, as you know, your testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the oath.

Perjury is a false statement of material fact which you do not believe to be true.

In North Dakota, perjury's a class C felony, punishable by a fine of up to $5,000, imprisonment for a period of up to five years or both.

Would you raise your right hand, please?

Being advised regarding perjury, Mr. Weckerly, do you swear that the testimony which you're about to give in this matter shall

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

MR. TERRY WECKERLY: I do.

T E R R Y W E C K E R L Y,

being first duly sworn, testified on his oath as follows:

MR. WAHL: You may proceed, sir.

MR. TERRY WECKERLY: Okay. Good afternoon, Commissioners.

MR. CLARK: Hi.

MR. TERRY WECKERLY: If it wasn't a 4-H sale, I wouldn't have to be, be trying to hurry home, but we've got to take care of the 4-H kids.

I'm 52 years old. Fourth generation on the farm.

Started farming following high school. Been in the business now for 34 years.

I don't know how many people 52 years old can say they've been in the same business for 34 years.

Currently, I'm on the Min -- North Dakota Grain Growers Association Board, was

elected to that in 2005. Currently serve as their president.

Besides our farming operation, we have other venture -- business ventures within the family. One of them happens to be an ag business called Hurdsfield Grain.

I've been managing that, besides farming, for the last 16 years, also.

One of the things that I was taught at a very young age, and that was to help improve the land, to make it better for our efficiencies and to make it safer for our people to be around.

I never understood why, when I was growing up, but my dad was always having -- we had a Cat guy, and that Cat guy come around every year and buried all the rock piles we made.

And, later on, that led to -- we started burying all the power lines across our land.

And these things have been done to, you know, to make us more efficient. And the power lines, it's just not efficiency, it's about employee and family safety.

You know, I had an inci -- incident a year ago, where one of the hired men was going around a rock pile, there was a power line there, lifted the marker, to, to avoid the rock pile, hit the power line, blew a hydraulic hose out in the planter, started a fire underneath it.

These are the type of issues that we dealt with.

I think probably for the last, oh, boy, you know, 15, 20 years at least, every other year we're buying a pole or two. So we decided to get rid of them.

Now I realize these power lines are probably going to be taller than what we're used to with REA high line poles, but poles are poles. And if they're out there, somebody's going to hit them.

We had a -- an employee one night, we were combining in the dark, well after dark, about 1:00 o'clock in the morning, no wind out.

You guys ever been out in the field when there's no wind and four combines are going? It gets pretty dusty, you can't see.

Guy came around one combine, didn't

see it, hit a power pole dead-on, center of the front tractor.

The only good thing about it was, he hit it so fast and hard, it slung out, went around the tractor and grain buggy before it came back in.

Now I don't care if that's a 6-foot, you know, a, a 2-foot-diameter wood post or an 8-foot-diameter power line. Those same things can happen.

And it's only a matter of time until they do.

I can go to the Internet to get you pictures of a tractor running over a pole or a power line pole, power line tower.

They scare the dickens out of me.

We just don't need to put extra obstacles where they don't belong.

So -- and with that, comes this age of GPS with farming.

Auto steer.

Now your Honor can tell us to turn our cell phones off in here and we have to abide by that.

I can tell my employees I'd prefer

their cell phone was off or to turn it off, but I'll guarantee you they don't abide by it.

When they're out in that field, you know, this spring's a perfect example of it, we put in two twenty -- two different 24-hour shifts.

Somebody's out in that field at 3:00 o'clock in the morning and talking to another neighbor at 3:00 o'clock in the morning on the cell phone and the dust is going the same direction that tractor is and he's got that auto steer on, it's not if, it's when we're going to hit one of those.

I promise you, after 34 years in this game, I've learned to never say never and I've learned what people can do.

So with some of these wonderful things we have, we've created bigger and almost worst distractions.

Another thing that concerns me, and will happen to us, is every time there's a pole, we have to double up and have extra headlands, extra areas around those poles.

Around those, you're familiar, no different than a prairie pothole, we're going

to have to have overlap.

We're going to have additional seed overlap. We're going to have additional pesticide overlap. We're going to have additional fertilizer overlap.

If one thing the last six years has taught me in being in the Grain Growers, is being in D.C. and working with people at EPA and the ri -- and, and, and the heightened knowledge of what's going on with agriculture and the regulations and the burdensome regulations that are coming down.

Because -- a prime example, if anybody hasn't heard, the Chesapeake Bay area.

They're going to go to nutrient load qualities, water monitoring standards.

I'm not saying that shouldn't be done, I'm not saying I'm not for the environment.

But what I'm saying is, I, I don't go along with things that are going to increase my chances for increasing that.

Because that is another potential when we start doubling up on applications.

Because a GPS might keep the

tractor going straight down the field, but it doesn't steer it around a pole and stop that 10 feet of overlap on that 60 or 70-foot drill.

Because that's another thing that we have today that we didn't used to have.

You know, I hit my first power pole when I was about 12 years old. The 145 Versatile tractor. Hit it with a 25-foot digger.

Now we're talking 60 to 80-foot air seeders out in the field. You know, the -- it, it, it just gets farther out, people's judgments aren't as good.

And as far as this overlapping, it's a tremend -- a tremendous burden. Because you're looking, not counting lost time, but a typical overlap, if it's, if it's seed, fertilizer and pesticide, you're talking about $150 an acre for every time you do that.

Now, our farm is going into its fifth generation. The sons I have bought this land with is the fifth generation. My great-great-grandpa homesteaded out here.

I don't have a reason to believe there's not going to be another five

generations on this farm.

So how many years do we have to live with this after it's done.

Foreseen opportunities.

I realize after being here, I should have brought down some more stuff for Exhibits. I wish I would have. And I would be happy to mail it to the Commission or whoever would like to -- or the -- tell me the channels to go through, but --

We just got a, a engineering firm, KT Irrigation, to do a study on some of this land of ours that they want to go across.

And we found out there's aquifers underneath it.

Way -- so we have the right soil, we have the right levelness of land and we have water.

Currently, there is not irrigation on that land. I will -- you know, can't say otherwise.

But we need to tile that land and we need to put irrigation on it. Because with the land market, where things have gone the last few years, and if you look at what the

world, the world production needs are going to be in -- by the year 2050, we need to keep agriculture getting more productive.

There is no two ways about it.

That's how we've stayed in business. For crying out loud, two years ago, the wheat was the same price as it was when I started farming in 1977. Got back down to 3 and a half, $4 a bushel.

How did -- how's ag stayed in business. Ag has stayed in business increasing productivity.

And that's what we're trying to do.

We're trying to preserve our rights to add to our land, increase its productivity and increase its value.

We don't have to keep buying more land, we don't have to keep farming more, but we do have to take what we have and make it more productive.

You know, some of the land that my dad's going to testify on could be a prime candidate for wind towers. But, from what I understand, from our attorney, you know, once the power lines get so close, you've got to

have such a far setback from the towers that it also enables you from collecting on the annual payments.

I disagree with the fact that prec -- you know, precedent hasn't been set to make annual payments.

You know, if I have to have poles on my land for the rest of my life and the rest of my grandchildren's life and my son's life, why shouldn't, why shouldn't they be entitled to the same thing as a wind-generating tower.

Because once that's there, we have given up opportunity of what today, I can't really tell you for sure.

If I had a crystal ball, I wouldn't be a farmer. I might still be a farmer, but it'd be easier.

So it -- one of the -- the other thing is, too, it's -- our local infrastructure. Everybody talks about, we're going to come in, we're going to do this, we're going to do the construction phases and when you get done, the roads are going be the same, we're going to fix them.

I have not seen that day yet.

They're smooth when they leave. But they're not fixed. The roadbeds gets washed out. If you understand dirt and soil and roads, the roadbeds get pounded out. There's only one way to fix a bad roadbed, that's to tear it all the way down and start over.

We are living on a thread of roads out there right now. And I mean barely a thread.

If you want to go 15, if you want to go 5 miles, it's 10 to 15 miles to get there this year.

And now we want to take all this traffic and throw it on to some, some really weak township roads.

It's not going to work. When it gets done, we're going to have a whole lot less than when we started.

Because they'll come in with the maintainers, they'll blade it smooth, it'll look good. First rain shower comes, we have mush left in our hands again. Been there, done that. I've seen these things work before. I've seen other projects come through the

country. And I've seen what's happened when they left.

So, you know, these are, these are things that concern me, because it's, it's just -- get -- it, it seems to me that the countryside is expected to provide too much at times.

I believe these power lines should be built alongside major road arteries. That's where they're designed to take the traffic, that's where the best access is to the companies.

They call it the Highway 200 corridor. Stay along Highway 200 for crying out loud, not 10 miles north of it, not up in the sticks where there's no roads.

If it's the Highway 200 corridor, follow Highway 200.

I have land on both sides of Highway 200. Put it on the right of way of Highway 200, I have no objections.

But to put these things as they propose to us, a thousand feet out into our fields, is totally insane.

And to put them up in the

wilderness, you know, lea -- 10 miles north of 200, if you've been north of Goodrich, north of Hurdsfield, pretty barren country. Minimum maintenance roads aren't even kept open in the wintertime.

They don't even blade them. No snow removal. And they're supposed to have access in case of an emergency.

I'm no rocket scientist, but over the years, I've learned a maintained road in the wintertime gets me someplace. A nonmaintained road often times is quite a struggle to get open.

So --

I -- I've heard a lot of talk today about, coming from, from Minnkota, about landowner inner -- input. And they seem to, to try to make a, a big thing on that and --

You know, nobody's came and talked to us.

When we offered -- told them that we didn't want the poles, thought they should take alternative routes, been ignored.

So, you know, you can't prove by me or my neighbors that there's been a lot of

landowner input into this process.

You know, as an observationist, it's more of a steamroller than a landowner input. But I guess when you've got the big engine, you can drive.

I guess with that, I'll conclude my testimony. Thank you guys for listening.

I certainly hope that you'll do the right thing and at least get these things down to major arteries, because the countryside is not made to withstand this kind of stuff going on.

Be along highways, do it smart.

MR. WAHL: Ms. Smith?

MS. SMITH: I have no questions.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I have no questions.

MR. WAHL: Mr. Lein?

MR. LEIN: So this thing now is going across your land or is -- or they want to put it across your land?

MR. TERRY WECKERLY: Yes, sir.

MR. LEIN: And you're -- you don't want it across your land, I --

MR. TERRY WECKERLY: Well, kind of

hard to have irrigation and have --

MR. LEIN: Okay.

MR. TERRY WECKERLY: -- power poles in the same piece of land, is it not?

MR. LEIN: Yeah. Can you tell us where your land is?

MR. TERRY WECKERLY: Rusland Township.

Do you have a --

MR. CHAD WECKERLY: 1 -- 1 -- 148-72, I think.

MR. KALK: Probably Exhibit 12d or somewhere in there.

MR. TERRY WECKERLY: 148-72.

It should be Weckerly Family Limited Partnership number three.

MR. CLARK: 12d maybe?

MR. KALK: Well, Goodrich is on 12d. Maybe we can look at 12d and that may be --

MR. TERRY WECKERLY: No, this is actually north of Chaseley, it's in Rusland Township. It's, it's, it's right --

MR. CLARK: Yeah, 12d.

MR. TERRY WECKERLY: -- straight

east of Highway -- right in --

MR. WAHL: Mr. Weckerly, in the book in front of you, it -- there's Exhibit 12d.

Yep, there you go.

Can you find it there?

MR. TERRY WECKERLY: Oh, let's see. Rusland.

Okay, Highway 3.

The first two parcels of it to -- the first parcel, the power line's going across them is in Rusland, Section 31, the south half.

If you follow Highway 3 up north of Hurdsfield, and where it goes right, you go off it the first mile, it's the second mile off of Highway 3, Section 31.

MR. LEIN: Okay.

MR. TERRY WECKERLY: Then you stay on 12th Street and cross that and we go over -- let's see.

I believe the rest of it would be in Sections 35 and 36.

We would have the east half of 35, the southeast quarter of 46.

We would have the east half -- west

half, excuse me, of 36 and the southeast quarter of 25.

And then the southeast -- oh, let's see. The sou -- the east 80 of the southeast quarter of 36, also.

Do you want to run?

I have a map of those lands in the pickup. Chad can run up and get them quick. I brought seven copies. I should have brought them down here with me.

MR. WAHL: Yes, --

MR. TERRY WECKERLY: I'm sorry.

MR. WAHL: -- you should have.

Can we continue the -- Mr. Lein, can you continue your questioning? If any. Other than --

MR. LEIN: Was there --

MR. WAHL: -- with location.

MR. LEIN: Looking at the route there, were there some proximities in the, in the general area that you thought would be a, a better route or that would --

I mean, I know you said go along the Highway 200 corridor, that's pretty general. Did you have something more specific

or --

MR. TERRY WECKERLY: Well, these are all township roads. And I still maintain if they're calling it the Highway 200 corrid -- corridor, that it is the High -- you know, put it along the highway where you have good access.

There are already power lines along those highways. You already got infrastructure built in to service that later on.

And it -- you know, if I go east of Hurdsfield, like I say, east of Hurdsfield, we own the property on both sides of the road for 2 miles on the north side and a mile on the south side.

I don't have an issue with it being down there and putting it on their highway right of way down there.

But what they've proposed, what, what they told my son is, you know, they're going to go up into the field.

There is -- see, because part of the issue there is when you cross -- 35, in the southeast corner of 35, there's a set of buildings there.

I'm taking it this dot describes a set of buildings.

So now we can't be that hundred-foot offset. Now we're throwing the poles up into the field this 3 to 500 feet.

And they tell us they won't make jogs. So, hence, we are magnifying the problem.

Because if we're going to have poles, they should be at where the township road offset is at the 33 and a half feet out for the least interruption of farming practices.

If you're going to go across prime farmland, then why not make it the least intrusive.

Because that's not what we've been proposed with.

MR. WAHL: Further questions, Mr. Lein?

MR. LEIN: Just one other question.

Can you tell me which portion of your land here that you had the irrigation study done for?

MR. TERRY WECKERLY: This land in,

this land in 35 and 36, and as well as the land in 31, would all qualify for that.

MR. LEIN: You said 31, 35 and 36?

MR. TERRY WECKERLY: Yep.

MR. LEIN: Okay, thank you, no further questions.

MR. WAHL: Mr. Weckerly, let's see what you've got for, for -- could use as Exhibits.

MR. TERRY WECKERLY: This was the one, it might be on there.

MR. WAHL: Okay.

MR. TERRY WECKERLY: And this, this was the 31. And this was the 35. Well, this is, actually encompasses the red line outlines, so --

MR. WAHL: So what's shown outlined in red is your land?

MR. TERRY WECKERLY: Yes, sir.

MR. WAHL: On each of these?

MR. TERRY WECKERLY: Yes, sir.

MR. WAHL: And are, are these i -- all identical copies?

MR. TERRY WECKERLY: Yes, sir.

MR. WAHL: And, and are these

copies that we can have?

MR. TERRY WECKERLY: You sure -- certainly can.

(Whereupon, Exhibit No. 1, T. Weckerly, was marked for identification.)

MR. WAHL: Mr. Weckerly, I'm handing you what has been marked for identification as T. Weckerly on -- Ex -- Exhibit T. Weckerly 1.

Where does this, where does this document come from? Who prepares this document?

MR. TERRY WECKERLY: I believe that my son took that off of the -- he printed that on our computer at the shop.

MR. WAHL: Okay. And what does this Exhibit show?

MR. TERRY WECKERLY: Well, this is -- this Exhibit shows our land. And this is the land that I'm explaining that we had, that we had K&T Irri -- Irri -- Irrigation do us a study on and locate aquifers and the feasibility of doing irrigation on it.

MR. WAHL: And it shows, among other things, has Sections 35 and 36 --

MR. TERRY WECKERLY: In --
MR. WAHL: -- in which township?
MR. TERRY WECKERLY: Rusland.
MR. WAHL: Okay. And --
MR. TERRY WECKERLY: And 25 and 26.
MR. WAHL: Right.
But it's 35 and 36 --
MR. TERRY WECKERLY: Is where --
MR. WAHL: -- then --
MR. TERRY WECKERLY: -- those power lines --
MR. WAHL: -- is, is where --
MR. TERRY WECKERLY: -- is going across.
MR. WAHL: -- the corridor is?
MR. TERRY WECKERLY: Yes, sir.
MR. WAHL: And how is the land owned by you indicated?
MR. TERRY WECKERLY: By the red line, sir.
MR. WAHL: All right.
MS. SMITH: I don't have any objection.
Can I keep a copy?
MR. WAHL: Oh, absolutely, but let

me -- I've got -- I don't have them all marked yet.

Mr. Sagsveen?

MR. SAGSVEEN: No objection.

MR. WAHL: And, Ms. Smith, no objection?

MS. SMITH: No objection.

MR. WAHL: Counsel, I'm just marking these by the No. 1, because I don't want to take the time to prepare Exhibit stickers.

(Whereupon, Exhibit No. 2, T. Weckerly, was marked for identification.)

MR. KALK: Thank you, your Honor.

MR. WAHL: Mr. Weckerly, I'm handing you for -- what has been marked for identification as Exhibit T. Weckerly 2.

Is this prepared in the same manner and shows the same information as Exhibit T. Weckerly 1?

MR. TERRY WECKERLY: Yes, sir.

MR. WAHL: And is this the area of the, the land -- well, are the, the sections identified in exactly the same manner and the area of the land owned by you is also indicated

by a re -- an outline of a red line?

MR. TERRY WECKERLY: Yes, sir.

MR. WAHL: Again, Counsel, I'm simply marking the Exhibit with a No. 2 for your reference.

Ms. Smith?

MS. SMITH: I don't have any objections.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No objections.

MR. WAHL: Ex -- Exhibit T. Weckerly 2 is received.

Did I say that Exhibit 1 was received?

COURT REPORTER: I'd have to go back. Do you want me to look?

MR. WAHL: Take a look, please.

Well, that's all right.

MR. SAGSVEEN: Your Honor?

MR. WAHL: Yes. No. Wait a minute, wait a minute.

MR. SAGSVEEN: Okay, all right, sorry.

MR. WAHL: One thing at a time.

If, listen, if, if I, if I did not say so, Exhibit T. Weckerly 1 is received.

Now, Mr. Sagsveen.

MR. SAGSVEEN: T. Weckerly 2, just so I'm clear, that's -- is that Section 31 in the St. Anna Township?

MR. TERRY WECKERLY: No, sir.

MR. SAGSVEEN: Okay.

MR. TERRY WECKERLY: Okay, now which one now?

MR. WAHL: 2.

MR. SAGSVEEN: 2.

MR. WAHL: I probably didn't leave you a copy, Mr. Weckerly.

MR. CHAD WECKERLY: It's this one. It's still Rusland Township.

MR. WAHL: It's, it's all Rusland.

MR. CHAD WECKERLY: It's all --

MR. SAGSVEEN: Okay.

MR. CHAD WECKERLY: -- Rusland.

MR. WAHL: Yes, it's what's --

MR. TERRY WECKERLY: Well, the affected land is all Rusland.

MR. SAGSVEEN: Okay.

MR. WAHL: Right.

MR. TERRY WECKERLY: I mean, 1 and 2.

MR. WAHL: 1 and 2.

MR. TERRY WECKERLY: Yeah.

MR. WAHL: Anything further, Mr. Sagsveen?

MR. SAGSVEEN: I don't have any objections, your Honor.

MR. WAHL: No, no. Do, do you have any -- do you have anything --

MR. SAGSVEEN: No.

MR. WAHL: -- further --

MR. SAGSVEEN: No.

MR. WAHL: -- with regard to the Exhibit?

MR. SAGSVEEN: No.

MR. WAHL: All right. Questions from the Commission?

Commissioner Kalk.

MR. KALK: Just in general questions, right, not in the Exhibits, your Honor?

All right. Terry, thank you for your testimony. I just had one question for you, the -- you said you're president of the

North Dakota Grain Growers this year?

MR. TERRY WECKERLY: Yes, sir.

MR. KALK: Do they -- do, do the Grain Growers have any guidelines or policies, procedures, that they kind of put out for folks like Minnkota or Central Power, when they say --

MR. TERRY WECKERLY: It's not the Grain Growers' job, sir.

MR. KALK: Well, I just was curious if there was anything that the organization puts out there as like a guideline or a, just a -- if there's not, that doesn't -- that --

MR. TERRY WECKERLY: The Grain Growers is the lobbyist arm for the, basically for the Wheat Commission, you might say.

MR. KALK: Okay.

MR. TERRY WECKERLY: We take care of the political matt -- matters. You seen us up at the Capitol during the sessions and -- you know, we lob -- we lobby for things for, well, the betterment of wheat.

MR. KALK: Sure. Okay, thank you.

MR. TERRY WECKERLY: We're not -- we don't get into all the -- Farm Bureau is

more along this line there. Landowners or something like that.

MR. KALK: Okay, thank you, Terry.

MR. WAHL: Any further --

Commissioner Cramer.

MR. CRAMER: Terry, thank you for your testimony. And my question for you is more contemplative, than specific, perhaps, to your situation and your case. And your testimony will be considered specific to this case, but -- you raise, in, in, in your line of testimony, you raise an interesting, I think, broader question.

That you can take to the Farm Bureau, if not the Grain Growers.

Is it better to have high voltage transmission lines crossing farmland or communities?

MR. TERRY WECKERLY: Well, you know, when you're talking about Highway 200, you, you take my area, 200 goes around Goodrich, it goes along the south side of Hurdsfield. It doesn't go through town.

MR. CRAMER: Uh-huh.

MR. TERRY WECKERLY: In Bowdon,

it's a half mile off of Highway 200.

So, you know, the area we're talking about, we're not talking about going through populated towns.

MR. CRAMER: Uh-huh.

How about farmsteads versus fields?

MR. TERRY WECKERLY: Farmsteads versus -- well, if you were talking -- you know, I know Jeff Topp, he's a friend of mine. You know.

MR. CRAMER: I wasn't thinking about him, but good example.

MR. TERRY WECKERLY: You know. But, but would I want this going through my farmstead; no.

MR. CRAMER: Uh-huh.

MR. TERRY WECKERLY: You know, I mean, I don't think Jeff Topp is out of line one bit. I mean, I, you know, I hear this deal about it's going to cost more if we take a different route.

Well, poor little me, I'm sorry. I fail to see -- you know, they're going to get it out of the rest of us anyway, they're just going to charge a little bit more for

electricity. But, you know, preserve the people out in the country as well as the people in town.

MR. CRAMER: Uh-huh.

MR. TERRY WECKERLY: You know, it's, it's a pretty basic and simple philosophy to follow, that if you're going across a, a place like Jeff's and not, not unlike my own yard, I mean, there's two families living in my yard, besides the fact we're beside a town.

MR. CRAMER: Uh-huh.

MR. TERRY WECKERLY: You know, as far as farmsteads being along Highway 200 versus up along this place that they've chose, cotton-picking, there's only, I think there's only one active farmstead even remotely really close to the highway between Hurdsfield and Goodrich.

When you take between Hurdsfield and Bowdon, there's a -- any farm -- you know, there's -- I think there's only one active farmstead along the highway.

You know, the rural decimation of America hasn't been limited out, north of town 10 miles, it's happened along the highways as

well.

MR. CRAMER: Very good.

I have nothing further, thank you.

MR. WAHL: Further questions from the Commission?

MR. CLARK: No, just thank you, Terry.

MR. WAHL: Anything further, Ms. Smith?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No, your Honor.

MR. WAHL: Thank you very much, Mr. Weckerly.

MR. TERRY WECKERLY: Thank you for your time today, I appreciate it.

(Whereupon, the witness was excused.)

MR. WAHL: Ms. Smith?

MS. SMITH: I'd call Dr. Peter Valberg.

MR. WAHL: Dr. Valberg, you know,

I'm sure, that your testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the oath.

Perjury is a false statement of material fact which you do not believe to be true.

In North Dakota, perjury's a class C felony, punishable by a fine up to $5,000, imprisonment for a period of up to five years or both.

Will you raise your right hand, please?

Being advised regarding perjury, Dr. Valberg, do you swear that the testimony which you are about to give in this matter shall be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

P E T E R V A L B E R G,

called as a witness, being first duly sworn, was examined and testified on his oath as follows:

MR. WAHL: Ms. Smith.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Could you please state your full name for the Commission?

A. Peter Valberg.

Q. And by whom are you employed?

A. Gradient.

Q. And what is your business address?

A. Gradient is at 20 University Road, in Cambridge, Massachusetts.

Q. And what is your position with Gradient?

A. Gradient is an environmental consulting firm and I'm a principal of Gradient and a senior health scientist.

Q. And what's the purpose of your testimony here today?

A. I'm here today to, to discuss electric and magnetic fields and their nature and to help illuminate people on the scientific research that has been conducted on the possible health effects of electric and magnetic fields.

And, very specifically, to discuss the magnetic fields that would be produced by this particular project.

Q. And could you please summarize your educational background?

A. I have a bachelor of arts degree from Taylor University in Indiana. That was in physics and mathematics.

And then I have master's and doctoral degrees from Harvard University, in Cambridge, Massachusetts.

In addition, from the Harvard University - School of Public Health, I have a master's degree in human physiology.

Q. And could you summarize your employment experience and your professional credentials?

A. I was a faculty member at the Harvard - School of Public Health for about 25 years.

And, in that position, I researched and taught in the areas of public health and toxicology and environmental health.

I've served on advisory panels for the National Institutes of Health, the Health

Effects Institute, the Environmental Protection Agency and the World Health Organization.

In terms of professional interests, I'm a member of the International Society of Environmental Epidemiology, the Health Physics Society and the Society of Toxicology and the Bioelectromagnetics Society.

Q. And have you served on any committees or as on -- a board member?

A. Yes. I was on the Committee on Man and Radiation, which is a committee that looks at standards of exposure to -- of electromagnetic fields to human beings, as well as on the board of directors of the Bioelectromagnetics Society.

Q. And could you please discuss your experience in the area of EMF?

A. I started working in biological effects of magnetic fields at the Harvard - School of Public Health. I had a grant from the National Institutes of Health, whose title was: Magnetic Field Effects on Macrophages.

These happen to be cells that are in your lungs that help clean out inhaled dust.

And it was a grant that was funded

by the National Cancer Institute.

While I was at Harvard - School of Public Health, they had two specific Harvard committees on electromagnetic fields, one was called the Harvard Advisory Committee on EMF and Human Health, the other one was called Peer Review Board on Cellular Technology and Human Health.

I also assisted the Health Effects Institute, which is a nonprofit, part government, part private industry institute, that's in Boston, Massachusetts, that does research on health effects.

And they were considering funding a research program on electric and magnetic fields that would help them evaluate the pros and cons of that program.

In addition, I've chaired a number of symposia on electric and magnetic fields. One was on physical aspects of EMF on biological systems, that was a symposium of International Congress of Radiation Research in Dublin.

I've organized a conference in the Boston area, on childhood leukemia and electric

and magnetic fields as possible risk factors.

And the proceedings of that workshop were published in a peer review journal called Environmental Health Perspectives.

And then, more recently, I was invited to lecture at the Cyprus International Institute on, on Environment and Public Health and the title there was: Electromagnetic Fields: Sources, Health Effects and Regulations.

I worked with the World Health Organization on the health effects of EMF as they apply to cellular telephone technology, in particular.

And that work was, again, published in that same journal, Environmental Health Perspectives.

And on the World Health Organization website, there's a more complete description of all of that work.

Q. And could you please discuss your efforts to maintain your expertise in the area of health effects related to EMF?

A. Because my area of interest is

electric and magnetic fields, the librarians at Gradient keep me posted on articles that come out, as would be cataloged by journal cataloging services, such as PubMed and so forth.

And in addition, I'm a member of the Bioelectromagnetics Society and the Health Physics Society. And, in addition, a member of the Society of Toxicology and the Academy of Toxico -- Toxicological Sciences.

And so all of those occasion -- occasionally publish materials that I'm familiar with, so I keep up with current developments in EMF.

Q. And if you could turn in the notebook in front of you to what has been previously marked as Exhibit 21?

Do you recognize that document?

A. Yes, I do.

Q. And can you identify it for us?

A. Yes. Exhibit 21 is my up-to-date resume that's available from Gradient. And it lists my education, publications, research grants and so forth.

MS. SMITH: I would offer Exhibit 21.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No objections.

MR. WAHL: Exhibit 21 is received.

Q. (By Ms. Smith) And, to begin with, could you explain what are EMF?

A. Yes, I would be glad to.

Electric and magnetic fields are really just ways that physicists describe the effect of fields that are created by voltages and currents.

In other words, electric and magnetic fields really describe force on charged particles.

Electric fields are created by voltages. And they, in turn, can exert force on charged particles.

Magnetic fields are created by electric currents. And they, in turn, can exert force on moving charged particles.

So that's really the simplest definition of electric and magnetic fields.

Q. And what about the strength of those fields, do they change at all, the

proximity to where the item is that is producing those fields?

A. Yes. I should just mention that the el -- the electric fields are proportional to the voltage on the lines, but they decrease with distance from the lines.

And, likewise, the magnetic field that any location is proportional to the electric current flowing in the line, but it decreases with distance. And these decreases with distance are fairly rapid.

I, I always like to point out to people that they have decreased to zero, far beyond -- far more quickly than the distance over which you could see the structures.

So you could see transmission lines over a considerable distance, but the electric fields fall off much more quickly than that.

Q. And what type of EMF is created by transmission lines?

A. As I mentioned earlier, electric and magnetic fields occur in a variety of contexts. And the electric and magnetic fields that are created by power lines are called extra low frequency.

As you know, in the United States, they vary at 60 times a second, sometimes called 60 hertz. And those are called extra low frequency electric and magnetic fields.

MS. SMITH: And just in case anyone wants to see the electromagnetic spectrum, I think I've forgotten to mention this, but we were going to put up the board of Exhibit 15 that shows the electromagnetic spectrum that was previously admitted.

A. Yes. The electromagnetic spectrum, you know, shows that electric and magnetic fields of a variety frequencies exist. And cell phones, radio waves, television waves, those are very high frequencies, compared to the 60 cycles per second that we're talking about here.

Q. (By Ms. Smith) And do any objects besides transmission lines produce ELF, ELF or extra, I'm going to say that wrong, so I'm just going to say ELF-EMF?

A. Yes. And, of course, it, it stands to reason that anything in our society that uses electric power also creates electric and magnetic fields.

So that in this room, because we have florescent lights, we have electric wiring in the walls and so forth, so that any electric currents at 60 cycles per second produce that electric and magnetic fields of that size.

Q. And are some of those depicted in Exhibit 3, which is the application?

A. Yes. I remember looking at that and that application does identify the types of electric appliances from which you get electric and magnetic fields. And it gives you some idea of their strength as well.

Q. Are electric and magnetic fields present in the earth itself?

A. Yes, they are. And I think we're all familiar with the fact that you can go out and hold a compass in your hand and it'll point to the north. And that's created by a magnetic field from the earth itself called the geomagnetic field, which is steady in time. It doesn't alternate in time, it always points north and somewhat into the ground.

And so, yes, those are fields that are of a size of about 500 milligauss.

And I mention that now, because it

might be interesting to compare that later on to other sizes of magnetic fields.

So the earth's natural magnetic field, a steady field, is 500 milligauss. And, likewise, because the clouds are always charged, they always have an excess of positive or negative charges, it means that there's also in nature a steady electric field of about a hundred volts per meter all the time.

If you have a thunderstorm that's going overhead, that can go up to kilovolts per meter. And clearly it gets high enough so that it can cause breakdown of the air because the lightning stroke is a description of air breakdown by static electric fields from the natural clouds.

Q. And has scientific research been conducted on the possible health effects of power line electric fields and magnetic fields?

A. Yes. The, the scientific research has gone on for quite sometime now, I think it began to become more and more vigorous as long as 40 years ago and people began looking at potential biological effects of electric and magnetic fields.

And over this period of time, the focus has been almost primarily on the magnetic field component.

The electric field component is easily shielded by buildings, in fact, it's interrupted by the skin on your body.

But the magnetic field can penetrate buildings and can penetrate your body, so that's where the emphasis of the research has been.

Q. And what led initially to the scientific research on the possible health effects of power line magnetic fields?

A. Interestingly, there was essentially one article that appeared in the late '70s, that had been doing a statistical correlation between the cases of childhood leukemia and the location of electrical structures.

And they reported in a journal that they had found a correlation, such that the, the nearby location of some electrical structure, not, not necessarily a transmission line, but that location, that somehow that was associated, sorry, associated with an increased

incidents of childhood leukemia.

And that was essentially the paper that started all of this work.

Subsequent to that time, the United States Congress allocated a fair amount of money to be given out by the National Institutes of Health so that scientists could take that same kind of effect and bring it into the laboratory to see if, in fact, some sort of laboratory effect could be duplicated along those lines.

Q. And you mentioned that there were later laboratory studies. What type of study was this initial study?

A. This initial study, if I didn't use the word, is -- was called an epidemiologic study. It's a study of human populations.

Q. And could you just explain those types of studies a little bit further?

A. Epidemiology, as you might guess from the name itself, is the study of disease patterns in the population.

And so what epidemiologists essentially do, is they divide the people up in the population according to where they live,

according to the diseases they have, according to the exposures they may have, according to the occupations they have and so on.

And so the whole science of epidemiology is to try to find some sort of statistical correlation between the pattern of disease and the pattern of exposure.

And when you're interpreting these epidemiology results, it's very important to remember that they are just statistical correlations. And there are various things that can give you a wrong signal, because these correlations can -- are no -- shouldn't be accepted as a cause and effect link.

You have to be worried about things like bias and confounding and misclassification, which can give you a correlation in the absence of a causal link.

Q. Could you explain those terms of bias, confounding and misclassification, what those mean a little bit more?

A. Yes. I'd, I'd be glad to do that.

And, and I will just divert and give three examples, because they, they might help illustrate.

One of the problems that epidemiologists run into, in terms of bias, I mean, for example, if you were to imagine -- let's just say, I'm an epidemiologist and I want to look at the causes of headache. And so I'm going to find a bunch of people, however you want to do it, by telephone calls or whatever, I'm going to divide them into two groups.

Here's a group of people that has headache. And here's a group of people that don't have headache.

And I -- my hypothesis is going to be that noise causes headache.

And so I'm going to get these people and I'm going to have them fill out a questionnaire and say: before you had a headache, did you hear a loud noise or were you near a jackhammer or something like that?

And you give that questionnaire to both groups.

What I can guarantee you is that even in the absence of any correlation between noise and headache, the people with the headache will say: yes, I did hear a noise.

And that's because there's this very well-known phenomenon in epidemiology called recall bias.

That if you have a condition and somebody says: were you exposed to smoke, noise, you know, ultraviolet rays, or something, you can remember much better that, yes, maybe there was an incident where that happened.

So collecting your data in such a fashion that invokes this recall bias means that it's, it's, it's a bias that kind of makes your conclusions hard to interpret and probably means, means any associations are, are invalid.

So that's, that's one form of bias.

Another one is called confounding. And suppose you wanted to do an experiment that you said: I think I know what causes high blood pressure. I think wearing reading glasses causes high blood pressure.

And so, again, you, you take up -- you know, divide up your people. You have a bunch of people here with normal blood pressure, have a bunch of people over here with high blood pressure, and then you ask them: do

you use reading glasses?

Well, you're probably already jumping ahead to realize, well, yes, you will find, indeed, there's a very strong correlation between somebody using reading glasses and high blood pressure.

And so are you allowed to conclude that reading glasses cause, cause high blood pressure?

Well, no, of course, you probably alrez -- already realize that there's a so-called confounder in this case. The confounder is that using reading glasses is also a tip-off that you're of an older age. And so that means, yes, older age is known to be a risk factor for increasing blood pressure.

So all you've really done is shown that older age is associated with high blood pressure.

But that's an example of a confounder that is going -- that goes along with the variable you think you're studying, but it's really kind of hidden there. And if you don't allow for it, you'll get an erroneous result.

And the final example is misclassification. If -- suppose you were saying, oh, I know, you know, I think sun -- sunlight causes cancer, skin cancer.

And so you give a questionnaire to somebody.

And it says: well, yes, do you like to lie out on the beach and so forth?

And, and then you, again, find out whether the people that lie out on the beach have a higher incidence of skin cancer or not.

Now, of course, in that circumstance, you probably will find out that the, the people who like to lie out on the beach do have a higher risk of skin cancer.

However, now that we know a lot about skin cancer, it turns out that the thing that's actually most important, the question you should have asked is: how many times did you get sunburned as a child?

Because the number of times you get sunburned in -- during youth, is a much better predictor of the risk of skin cancer than just asking somebody if they like to lay out on the beach.

And so that's called misclassification bias. I mean, you didn't quite ask the right question.

So this diversion I've given you is really by way of illustrating that epidemiology is very tricky to interpret.

Q. And what has the scientific community concluded with respect to those epidemiologic studies you referenced specifically, and then with respect to the possible health effects of power line magnetic fields in general?

A. Yeah. The, the, the power line electric and magnetic field epidemiology has shown this association, it is a statistical association and people have struggled with the idea of, does it really mean that there's a causal effect there.

One of the most recent reviews, as I said, this has been going on for about 40 years, one of the most recent reviews was the President's Cancer Panel, which met in 2008 to 2009, and they issued a report just last year, in April of 2010, and, and they pointed out that, yes, indeed, many of these studies were

very difficult to interpret.

Because, for example, the, the magnetic fields, and many of them were not measured, the magnetic fields were assumed as a function of distance or assumed as a function of the style of transmission lines and so forth, and so there was an issue of misclassification bias. You didn't know that the exposure was correct.

Secondly, there could have been an issue of confounding bias, because what happens is that there tend to be more electrical structures of a higher density that are aboveground in older areas of communities.

Older areas of communities tend to be of a lower socioeconomic status, they also seem to, you know, have whole different types of housing. This may have housing problems that's perhaps deterring housing, perhaps confounded by moisture and mold and so forth. And so that was a problem.

And then, finally, the most serious problem of the epidemiology studies was selection bias, because leukemia is such a rare disease, that you recruit the subjects in two

entirely different ways.

To get your leukemia cases, you go to hospitals and doctors and say: tell me who your leukemia cases are.

But in order to get the comparison population, you have to do an entirely different procedure. You put out ads in the newspaper. You do this thing called random digit dialing.

And there are so many things that are different between those two selection methods alone, that make it susceptible to finding some difference between those populations, that you're not really selecting a comparable population.

Now you can't do too much about that. But, you know, these are the kinds of problems that occur with the epidemiology studies.

Well, -- and I, I guess I did also want to mention that when this panel, when the Cancer Panel reviewed this data, they pointed out a couple other problems having to do with how you interpret the data.

One is, that you would think that

the individuals who have the greatest risk of disease from electric and magnetic field exposure would be line workers, electricians, people who work in power plants, people who work in substations, because the levels there are really quite high.

And so if you ki -- kind of got a hint that something may be associated there, you would immediately go to those populations and see if, in fact, there is a higher risk.

And the answer is, no, there isn't.

And so it's really a phenomenon of these epidemiology studies done in residential populations.

And then perhaps in one of the -- sort of another really serious problem is, as I said earlier, the epidemiology studies triggered all of these laboratory studies where people took that same hypothesis into the lab and said: well, is -- are the electric and magne -- magnetic fields going to change animals, are they going to change cells, are they going to change molecules in such a way as to increase the risk of cancer?

And that there, again, the

epidemiology studies were not substantiated by laboratory evidence.

The laboratory evidence is very powerful because it's experimental. You can have either exposed or unexposed animals. You can do what is really a scientific experiment, as opposed to the epidemiology, which is really observational.

So the, the laboratory evidence didn't really support the connection between the electric and mag -- between the magnetic fields and leukemia risk.

Finally, another thing that occurred in, in the year 2010, just last year, was that there was this public health agency on the international basis, whose name you probably have already heard, the International Commission on Nonionizing Radiation Protection, and they have been promoting guidelines -- or providing guidelines for electric and magnetic field exposure for many, many years. And they had guidelines for power line EMF that they issued in 1998.

In 2010, they actually looked at those guidelines again and said: given the

intervening research that has been done, are these guidelines still fine and so forth.

And the net result, which you can read in their publication, is that, first of all, in terms of the electric field guideline, they didn't change it at all.

In terms of the magnetic field guideline, they actually allowed a higher level of magnetic field exposure that they felt was protective of public health. They changed for 60 hertz magnetic field, they changed their guideline from 833 milligauss, which is what it used to be, and now, starting in 2010, it's 2,000 milligauss.

And this guideline is very often adopted by the WHO and the European Union and so forth.

Q. And at one of the prior public hearings in this matter, there were some cer -- -- concerns that were raised regarding EMF and its potential impact on reproductive health of livestock.

Have any scientific studies been conducted with respect to EMF and the repro -- reproductive health of livestock?

A. Yes, they have. And, and you need to look at that in, in sort of one of two ways.

And, fir -- first of all, a vast amount of laboratory animal research on EMF effects on living organisms has already demonstrated that it's very difficult for these power line fields to have any effect on biology. And they, in fact, have been tested for reproductive function as well.

And so even though that wasn't livestock particularly, those lab -- laboratory animal studies would be expected to be predictive of effects both in humans and livestock and didn't support that idea.

Now with respect to livestock in particular, there was a considerable amount of research on EMF and livestock, which was conducted in Quebec, Canada.

And that research was actually published in this journal of the society that I mentioned earlier, the Bioelectromagnetics Society. And there is a journal called the Bioelectromagnetics Journal, which publishes this work.

And what they showed was that the

EMF exposure to these Holstein cows didn't change their hormonal profiles as far as they could tell.

There were some changes, but when they took into account the fact that these things vary up and down, that there are statistical variations that you have to test for to see if they're really significant, they didn't find an effect.

And so their conclusion, in that Quebec dairy study, was that there were no harmful effects on the health, productivity, fertility, reproduction or behavior of livestock exposed to power line electric and magnetic fields.

Q. And you mentioned earlier one guideline. Could you talk a little bit more about any standards or guidelines that have been established regarding public su -- exposure to EL -- ELF-MF?

A. Yes. The -- in, in terms of the work environment, there have been guidelines that have been provided by the American Conference of Governmental and Industrial Hygienists, and also in terms of other public

guidelines, aside from the International Commission on Nonionizing Radiation Protection, there is the Institute -- International Electrical Safety Committee, which is also part of the I triple E, the Institute of Electrical and Electronic Engineers. And so they have also developed a guideline for exposure to power line magnetic fields.

And, finally, one particular country, Australia, in their Australian Radiation Protection and Nuclear Safety Agency, have also developed a guideline for power line magnetic fields.

Many agencies have decided not to develop guidelines in part, because they feel that the science isn't really strong enough to come up with a, come up with a number.

Q. And have any states established standards or guidelines?

A. Yes. A number of states have established guidelines, which are a, a bit more like guidelines that are linked to the status quo, they're not necessarily linked to scientific research, and those states include Florida, Massachusetts and New York.

Q. Has North Dakota established any standard?

A. I'm not aware that the state of North Dakota has established any standard for either power line electric or power line magnetic fields.

Q. And has there been any standard established at the federal level?

A. At the United States federal level, the answer is, no, it, it has not been e -- established.

Q. And what are some of the magnetic field standards for the general public that have been established for 60 hertz magnetic field exposure?

A. Yes, that -- that's probably worthwhile to keep in mind.

As I mentioned a, a bit ago, that International Commission on Nonionizing Radiation Protection, that was 2,000 milligauss.

The ICES, I triple E, I'll just use the abbreviations to save time, is 9,040 milligauss.

And the A -- ARPANSA, ARPANSA, to,

to use the abbreviation, is 3,000 milligauss.

Q. And, earlier, Mr. Phillips discussed the EMF report for this particular project. And that is found as Exhibit 11 in the notebook that is in front of you.

Are you familiar with that particular report?

A. Yes, I am.

Q. And how does the magnetic field levels discussed in the EMF report compare to the various magnetic field guidelines and standards that have been established?

A. Well, as you can see for yourself, the magnetic fields in the EMF report on the Grand Forks transmission project are considerably below the magnetic field guidelines and standards I just mentioned.

For example, the right of way edge fields, even under maximum loading of the lines themselves, are below a hundred milligauss. And within the right of way, under the lines, at the point of maximum loading, the fields are below 342 milligauss.

And I should probably go ahead and add, that those were fields that were

calculated for the capacity of the lines.

That, that means that's how much they can go before they would sag and, and, you know, potentially melt.

Now if you look at what they're actually anticipating on this line, the right of way edge fields would be 25 milligauss, and underneath the lines, it would be below 75 milligauss.

Q. And those standards that you mentioned earlier, are those based on exposure on a 24/7 basis?

A. Yes, that's correct, I probably should have mentioned that, that those public guidelines were meant for continuous exposure. And that the public health agencies that developed them felt that if you maintained be -- exposure below those levels, that you would not have an anticipated adverse health effect.

Q. And in your professional and expert opinion, are there health risks associated with the EMF typically found in the vicinity of electric power transmission lines?

A. I would have to say that where the

science stands today, it's, it's unlikely that there's an effect.

I think that despite the extensive experience that we have with people and animals exposed to power line EMFs, the links to disease, you know, still remain hypothetical.

The difficulty is that science can never prove a negative.

But I think that in terms of the evidence that would support an actual effect, I don't think it's there.

We know that we've used electric power here in the U.S. for over a century and, clearly, if you follow any health statistic you want, that we are living longer, disease rates are going down, a little blip caused by smoking and so forth, but, otherwise, that, that we are actually getting healthier, in spite of the fact that we're continuing to use more and more electric power.

And, I guess in my opinion, I would say that among all the multitudes of environmental exposures that we experience daily, and which we can have some effect on, and maybe improve our health, that power line

magnetic field exposure remains kind of a low priority source, partly because of the lack of evidence that really supports the idea that it causes adverse health effects.

Q. And is that the same, also, for livestock?

A. Yes, that's right, that would -- the same statement would apply for livestock.

MS. SMITH: I have no further questions.

MR. WAHL: Mr. Sagsveen?

CROSS-EXAMINATION

BY MR. SAGSVEEN:

Q. You cited one study from Quebec that dealt with the, the effects of magnetic, was it magnetic of field -- fields on livestock?

A. Yes, uh-huh.

Q. Is that the, the only study in the area or are there -- have there been other studies that have come to conclusions that there might be more of an effect demonstrable or re -- or more statistically significant effect?

A. No. There have been a, a fair number of studies.

It -- I should make two comments.

One is, that there were a lot of studies that were done in the context of the Bonneville Power Administration, up in Washington state, where they had, you know, sheep and livestock underneath lines, that looked at these similar effects and, likewise, didn't find anything consistent.

When I was referring to this Quebec study, there's actually probably like five or six studies within that, five or six separate published papers, and they were sum -- they were summarized in a document that pulled together those various ones that said, yes, something seemed to show an effect, but then when we tried it again, it didn't show an effect.

And so the, the pattern really was not supportive of an idea that these parameters were affected by power line electric and magnetic fields.

MR. SAGSVEEN: I don't think I have any further questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions, your Honor.

MR. WAHL: Questions from the Commission?

Commissioner Kalk.

MR. KALK: Just one quick question, sir.

Does temperature play a big, big variable in the, the, the amount, if you will, or does it -- whether it's 80 degrees above or 20 degrees below zero? Is there any difference that that would make in the research?

THE WITNESS: I'm not aware that that has any effect.

I mean, one of the things that, and, and typically in experiments like this, you make a very good point, is that that could be one of the confounding factors.

I mean, let's say you were exposing animals and you had this big coil here producing a magnetic field, and then over here, you had animals with no coil.

That coil, when you drive current

through it, is going to produce heat.

And so one of the things you have to worry about is, well, maybe when you find a difference between those two groups of animals, it'll be due to the heat alone.

And, then the fact of the matter is, yes, heat and temperature have big effects on human physiology, but the fact that those would modify the effect of EMF, I'm not aware that there's anything that would suggest that.

MR. KALK: Thank you.

MR. WAHL: Any further questions from the Commission?

Commissioner Cramer.

MR. CRAMER: Forgive me for asking this so simply, because you've probably answered it.

Are, are there any studies out there that say that it is a problem? In other words, who's -- peop -- people argue that it is all the time. Whether they argue it scientifically with solid evidence is, you know, another question.

And I suspect there's some landowners here today that may be prepared to

argue that.

What is the best body of research that disputes what you're saying today and why it is not credible?

THE WITNESS: Well, I think in terms of your first question, yes, if you go to the Internet and you type in electric and magnetic fields, I think you will find lots of things where people say it's a problem, it causes disease, there are various things.

And I think that what you need to do, is, to get a more balanced viewpoint, is to look at the public health agencies, the World Health Organization, and look at, at people -- American Medical Association and so forth.

I think that, again, all of these associations recognize that you can't prove a negative.

And one of the issues in this area that you put your finger on is that the epidemiology, those statistics, you cannot kill. Once you see an association between A and B, you might take it to the laboratory and say it's implausible, but that doesn't make it go away, the association is still there,

because it's an association between column A and column B.

And so there are a number of studies that show that kind of an association. And it's not clear why that association arises.

But I guess what I am saying is that the strongest evidence is from the laboratory side, where if you actually try to do something with electric and magnetic fields, you find that contrary to higher frequencies or even ionizing radiation, you can't cause that kind of effect.

And so there's something quirky going on that's causing those statistical associations. And I mentioned some of the possibilities. But to tell you the truth, we don't know which one of those confounding factors is at play.

MR. CRAMER: Okay, very good.

I have nothing further, thank you.

MR. WAHL: Further questions from the Commission?

Anything further, Ms. Smith?

MS. SMITH: No, your Honor.

MR. WAHL: Anything further, Mr.

Sagsveen?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No, your Honor.

MR. WAHL: Thank you, thank you very much, Doctor.

THE WITNESS: Okay.

(Whereupon, the witness was excused.)

MS. SMITH: I would call Terry Fasteen.

MR. WAHL: I note for the record, Mr. Fasteen, that you have testified previ -- for the previous hearings for this case.

And you understand, of course, that your testimony continues for this hearing under oath and subject to penalties of perjury?

THE WITNESS: Yes, sir.

T E R R Y F A S T E E N,

called as a witness, being previously first duly sworn, was examined and testified on his oath as follows:

MR. WAHL: Ms. Smith.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Could you please state your full name for the Commission?

A. Sure. My name is Terry Fasteen.

Q. And by whom are you employed?

A. I'm employed by Kadrmas, Lee & Jackson.

Q. And what is your business address?

A. My address is 1505 30th Avenue South, in Moorhead, Minnesota.

Q. And could you just briefly discuss your education and your work history?

A. Sure.

I've got a civil engineering technology degree.

I'm a licensed real estate salesperson in Minnesota.

And I've been employed by Kadrmas, Lee & Jackson for about the last 28 years. Working with Kadrmas, Lee & Jackson as a land surveyor, a construction manager, right of way agent and currently the leader of the right of

way group.

Q. And what is your role with respect to the proposed project?

A. I am the right of way task leader for the project.

Q. And what does your role as right of way task leader entail?

A. I'm in charge of oversight of the right of way group, the preparation of the documents that go out in the field with the agents, landowner assignments, review of reports that are produced. Work with training the agents on specific duties with this project. Perform the communication liaison between our company, Minnkota Power and the other subcontractors working on this project.

Q. And how do you coordinate with Minnkota on the right of way acquisition?

A. We coordinate daily by telephone or e-mail.

We also have project specific documents, reporting different items that might come up, such as landowner questions.

We also have a series of meetings on a weekly basis with the right of way group,

as a general group, with all the subcontracts, and also public information meeting once a week.

And on a quarterly basis, all the agents meet with Minnkota Power to go over issues that deal with the land acquisitions.

Q. And could you describe the process of contacting and negotiating with landowners to obtain, in this case, easement options and eventually easements?

A. Sure.

Generally what we do is we start out with personal calls, trying to make personal calls to the landowners to set up a meeting to explain the project and explain the documents.

If we're unable to reach a landowner by telephone, we'll send a general mailing, again, trying to solicit a response.

And if that fails, we'll go to a certified mailing, just so that we can be assured that we've tried to reach all these landowners.

And sometimes we're still not successful. But that's how we try to get these

people.

Once we set up a meeting, we'll go to the landowner's house or a meeting place and we'll go over the project, general project update, the project intent, project goal.

And we'll do a page-turn with specific documents that are project specific to perhaps that landowner specific.

In there, we have the easement option. We have a, a copy of -- or -- yeah, easement option. A copy of the easement that would be used and exhibited personal property. A, a detail as to how we developed the payment for that property.

We also give them a written offer that again explains what the cost is.

We also refer them to the project website for additional information that's available online that perhaps the land -- agents don't carry with them.

And at this time, we try to answer all the questions that we can that those landowners raise.

And if we don't have answers, the agents will document those questions to bring

them in.

Q. And then how are landowner requests and comments handled?

A. It depends upon the questions they have.

If it's with the structure location, we have a specific form that we will detail which structure they're concerned about and where they would like it to be moved or relocated.

General questions, we will document in writing and we will bring those questions back from the field and through me, they go to Minnkota Power, the design team, environmental staff, whoever can handle those questions.

Q. And Mr. Hennes and Mr. Phillips discussed some of the concerns that landowners re -- raise regarding transmission lines. Are there any other concerns that haven't been discussed today that you have heard?

A. I think they touched on pretty much everything. I'll just go over them briefly again.

One of the first questions is why the line is being sited through their property.

What potential health effects might be on the, the family or, or their livestock. Concerns with payments. Concerns with farming around the structures.

Perhaps the mining of minerals, aggregates.

Q. And how many miles of the line does Minnkota currently have under option?

A. Currently, we've got about 57 percent of the line miles or about 139, 140 miles.

Q. And we were discussing earlier issues about the airport. So --

A. Yes.

Q. -- I'm going to hand you what has been previously marked as Exhibits 24 and 25.

MS. SMITH: And we'll just take these one at a time.

Q. (By Ms. Smith) First, with respect to Exhibit 24, could you identify it for us?

A. Sure.

It's a, it's a letter from Max Kahlhamer, he's with the UND Helicopter Department, UND - Aerospace, at the University of North Dakota.

Q. And this is addressed to you. Is that right?

A. That is correct.

MS. SMITH: I would offer Exhibit 24.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No objections.

MR. WAHL: Exhibit 24 is received.

Q. (By Ms. Smith) And with respect to E -- Exhibit 24, could you just summarize for us what, what the letter contains?

A. Sure.

Earlier in the planning process, we had a meeting with UND - Aerospace and Grand Forks airport. And at this time, Max was -- attended this meeting and expressed to us some concerns that the school had with their training and flight patterns and their concerns with this transmission line going south of the airport.

We went through a lot of issues and agreed to have additional meetings with them and kind of summarize that, his feelings and the school's feelings at the time.

Q. All right. And according to the

letter, are they comfortable with the proposed corridor?

A. Yes, they are.

Q. And then I would turn to Exhibit 25. And could you just identify that for us?

A. Excuse me.

Exhibit 25 is a letter from Patrick Dame, who is the director of the Grand Forks Regional Airport Authority and the manager at the Grand Forks International Airport.

Q. And this letter is to you as well. Is that right?

A. It, it is.

Q. And regarding this partic -- particular project?

A. It is with regard to this project, correct.

MS. SMITH: I would offer Exhibit 25.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No objections.

MR. WAHL: Exhibit 25 is received.

Q. (By Ms. Smith) And could you explain what -- just, again, a summary of

what's provided in Exhibit 25?

A. Sure.

Patrick Dame and one of his assistants were in attendance at this meeting we had and, again, it was to introduce the project with representatives from the design staff, Minnkota Power, myself, as to what Minnkota Power was proposing, what we anticipated or hoped to place the line and, and the structures that will be used and the spacing.

Q. And are they, they, being the Grand Forks International Airport, or at least according to Mr. -- how do you say that, is it Dame?

A. Patrick Dame.

Q. -- Patrick Dame, a -- according to his letter, are they comfortable with the proposed project -- or, or the proposed corridor, I'm sorry?

A. Yes, they are.

MS. SMITH: I have no further questions.

MR. WAHL: Mr. Sagsveen?

CROSS-EXAMINATION

BY MR. SAGSVEEN:

Q. With respect to Exhibit 24, does Mr. Kahlhamer, he speak -- he speaks on behalf of UND - Aerospace in his letter?

A. Yes, he does.

Q. Okay. And --

MR. SAGSVEEN: I have no additional questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions, your Honor.

MR. WAHL: Questions from the Commission?

Commissioner Kalk.

MR. KALK: I -- just thank you for these, these late Exhibits, these Exhibits.

Just one question.

Do you have any unique concerns from the local county commissioners in this region of the, of the, of the transmission line?

THE WITNESS: They've had concerns with some of the siting, as to locations to section lines, roadways and such.

MR. KALK: No -- nothing different than what previous commissions have talked to you about?

THE WITNESS: Not really, no.

MR. KALK: Okay.

THE WITNESS: Roa -- you know, roads and such, but --

MR. KALK: Okay, thank you.

THE WITNESS: Uh-huh.

MR. WAHL: Further questions from the Commission?

Anything further, Ms. Smith?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No, your Honor.

MR. WAHL: Thank you very much, Mr. Fasteen.

THE WITNESS: Yeah, thank you.

(Whereupon, the witness was excused.)

MR. WAHL: Let's be in recess for ten minutes, stretch your legs, get a breath of fresh air, please.

(Whereupon, an eleven-minute recess was taken.)

MR. WAHL: All right, let's be in order, please.

Ms. Smith?

MS. SMITH: I call Brian Hunker.

MR. WAHL: I note for the record that you have testified previously, Mr. Hunker, at the hearings they had in this case.

And you understand, of course, that your testimony continues for this hearing under oath and subject to, to the penalties of perjury?

THE WITNESS: I understand.

B R I A N H U N K E R,

called as a witness, being previously first duly sworn, was examined and testified on his oath as follows:

MR. WAHL: Ms. Smith.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Could you please state your full

name for the Commission?

A. Brian Hunker.

Q. And by whom are you employed?

A. HDR Engineering.

Q. And what is your business address?

A. 701 Xenia Avenue South, Suite 600; Minneapolis, Minnesota.

Q. And could you tell us about your educational background?

A. Yes. I received a bachelor's of science from the University of Wisconsin - Madison.

And I have about ten years environmental consulting experience.

Q. And could you tell the Commission about your work history?

A. Throughout my career, I've gained project management, compliance and permitting experience working on linear energy projects, basically transmission lines and pipelines.

I have a broad understanding of the regulatory framework relating to federal and state and environmental review documentation.

I've led routing studies, gathered environmental and land use data through

windshield and field surveys and analyzed data using GIS and participated in agency and public open houses.

Q. And what is your role with respect to the proposed project?

A. Environmental consulting project manager.

Q. And in that role, what do you do?

A. Manage technical staff, field studies, preparation of environmental reports, permit applications, as well as assist in agency consultation.

Q. And so you were involved in the environmental analysis of the project corridor?

A. Yes.

Q. As well as being involved in the preparation of the Certificate of Corridor Compatibility application?

A. Yes.

Q. And what was the overall approach to environmental analysis of the project corridor?

A. Primary components of the environmental analysis included data acquisition, mapping, stakeholder input and

public involvement.

Publicly available GIS data was collected relating to natural resources, cultural resources and land use issues from federal and state data clearing-houses and agencies.

Then, field assessments and public and agency outreach were conducted. Stakeholder comments were entered into the GIS database.

The environmental data was combined on -- combined with data on electrical reliability factors, engineering feasibility, costs. And data was analyzed to determine potential opportunities and constraints.

Q. And could you please give us a general description of the project corridor from an environmental perspective?

A. Sure.

In general, the project corridor is rural, intensively farmed or pastureland interspersed by rural homesteads, open land, water, transmission and distrubution lines.

Cultivated croplands are more prevalent in the eastern portion of the project

towards the Red River Valley.

Pasture and wetlands are more prevalent in the western portion of the corridor, towards the Missouri River.

The project corridor contains undulating terrain in the western section, within the Prairie Pothole Region, near major rivers. Otherwise, the eastern half is nearly level within the Red Riv -- or, yep, within the Red River Valley.

Wetlands are typically small, isolated depressions, but may also be found along drainage ways, rivers, streams.

Trees are sporadic throughout the project and are primarily present as wooded draws, riparian areas and windrows.

Currently, the most common wooded areas are shelterbelts around buildings.

Major rivers have a wooded, riparian fringe, and these rivers include the Sheyenne and Missouri Rivers.

Q. And are you familiar with the exclusion areas, avoidance areas, selection criteria and policy criteria set forth in the Commission's rules?

A. Yes.

Q. And when analyzing the project corridor, did Minnkota and HDR take into consideration those exclusion areas, avoidance areas, selection criteria and policy criteria?

A. Yes.

Q. And could you please discuss whether any exclusion areas are located within the project corridor?

A. Sure.

As shown in Table 3.1-1 of the Corridor application, Exhibit 3, there's one exclusion area present within the project corridor, but impacts to the exclusion area will be avoided by the project.

The criteria are areas critical to the life stages of threatened and endangered species.

Now, in this case, it's designated critical habitat to the federally threatened piping plover.

The Missouri River is designated critical habitat to the piping plover. The project will span the Missouri River. No direct impacts within this critical habitat, as

structures will be placed approximately 150 feet away from the river's edge. And Minnkota will not construct across the Missouri River during the piping plover's typical breeding season.

And during construction, no equipment will be located within the Missouri River.

Now the RUS has engaged the U.S. Fish and Wildlife Service in Section 7 consultation, as a part of the National Environmental Policy Act, or NEPA process, to ensure that the project will not endanger the continued existence of any listed species or adversely modify designated critical habitats.

Q. Are there any other exclusion areas present within the corridor?

A. No, however, I wanted to clarify that although there is unique or rare plant and animal species are present in these areas and species will not be irreversibly damaged.

Q. And could you please discuss whether there are any avoidance areas located within the project corridor?

A. The avoidance areas that are

present within the corridor are discussed in Table 3.2-1 of the Corridor application.

And I'll briefly discuss the avoidance areas present and how the project will avoid these areas.

First criteria is designated or registered national wildlife areas.

There are two Waterfowl Production Areas, they're WPAs. The Hoornaert and Gaub that are located within the corridor.

And there's one Wildlife Development Area, or WDA, which is called the East Park Lake WDA, that is located within the corridor.

Minnkota will develop a route that avoids these two WPAs and WDA.

Next criteria, designated or registered state management areas.

There's one Wildlife Management Area, the Wilbur Boldt WMA, located within the corridor.

And Minnkota will work with the North Dakota Game and Fish Department so that no structures will be located within the WD -- WMA and no lines will cross the WMA.

Next criteria, criteria is historical resources not designated as exclusion or avoidance areas.

There are eleven previously recorded archaeological resources within the North Dakota State Historic Preservation Office, or SHPO, database, that is present within the corridor.

Also within the corridor are 12 historic structures previously recorded within SHPO's database.

None of these resources will be impacted by the construction or operation of the project.

Minnkota will conduct a Class III Cultural Resources Field Survey on the high probability areas in accordance with SHPO guidance to avoid impacting cultural resource sites.

RUS and Minnkota will enga -- or are engaged in the Section 106 consultation process to consult with SHPO, Native American tribes and others on the project.

The product of this process is a Programmatic Agreement, or PA, to address the

Class III field survey, treatment plan and monitoring.

Under the Programmatic Agreement, Minnkota has developed an Unanticipated Discoveries Plan to establish proc -- procedures that will be followed if cultural resources are unexpectedly encountered during construction. And this plan is being reviewed by SHPO.

Q. And could you discuss whether there are any other avoidance areas present within the project corridor?

A. Yes.

Next criteria are basically with having the corridor within 500 feet of a residence.

There are four occupied residences and one vacant, but occupiable house that is located within the corridor.

Minnkota will maximize the route within the project corridor that maximizes setbacks from the residences.

If locating a route within 500 feet of an occupied residence is preferable due to other routing factors, Minnkota will work with

affected landowners to obtain a waiver of the 500-foot setback requirement.

If waivers cannot be obtained, Minnkota will be able to develop a viable route within the corridor that satisfies its 500-foot setback requirement, as well as other siting requirements.

Next avoidance area is water sources for rural -- or water sources for organized rural water districts.

The McClusky Canal will be crossed by the project corridor and no im -- impacts are anticipated to the canal or water availability for water rural districts.

Rural water pipelines are potentially present and no impacts are anticipated.

And Minnkota will conduct a survey of underground utilities to avoid impacts.

Next avoidance area are irrigated lands.

There's one central-pivot irrigation system located within the corridor and this system will be avoided by a route within the project corridor.

Last criteria are areas of recreational significance, not designated as exclusion areas.

These would be the North Country National Scenic Trail, Lewis and Clark National Historic Trail, Chain of Lakes Recreation Area, the McClusky Canal.

Minnkota will span the trails and the Chain of Lakes, McClusky Canal.

Visual impacts will be minimized by placement of structures away from features to the extent practical.

Access to the feat -- to these features will be maintained so that recreational activities may continue.

There is no reasonable alternative to crossing these features, since the trails run along the Missouri River and the McClusky Canal.

Minnkota proposes to cross the Missouri River near existing transmission lines and cross the Chain of Lakes Recreation Area along State Highway 41.

Q. And will any significant adverse effects result -- resulting from the location,

construction and operation of the project within the project corridor as they relate to the selection criteria set forth in the Commission's rules, be at an acceptable minimum or managed and maintained at an acceptable minimum?

A. Yes.

Q. And were environmental studies conducted for the project?

A. Yes.

Q. And could you identify what studies were conducted and when any applicable reports were or will be filed with the Commission?

A. Well, there were a number of environmental studies conducted over the course of developing the project corridor.

The studies that were filed with the application include the following. The Macro-Corridor Study, which is Appendix B to the application; the Scoping Report, which is Appendix C to the application; the Environmental Assessment with Scoping, Appendix D to the application; Cultural Resources Class I Literature Search, Appendix F to the application; and the Raptor Nest Survey report,

which is Appendix G to the application.

In addition, some fieldwork has recently been completed on additional environmental studies. Once the reports are completed, they will be filed in conjunction with the Route Permit application proceedings.

These, these include the Wetlands Delineation Report, Class III Cultural Resources Inventory Report, Architectural Survey Report and Tree Inventory Report.

Q. And were all of the studies conducted and the reports completed to date prepared under your supervision and control?

A. Yes.

Q. And in addition to the formal studies you discussed, were there any other key analyses of the project corridor conducted?

A. Yes. As Mr. Hennes discussed in his -- or, I'm sorry, as Mr. Phillips discussed in his testimony, EMF fields were calculated for the project.

We conducted audible noise from the transmission line -- or audible noise from the transmission line was modeled and they found no significant effects.

Visual simulations were completed for the project, open house meetings.

Floodplain analysis of the Missouri River, the Sheyenne River and English Coulee were conducted.

We conducted an overview survey for high quality native prairie areas.

And in addition, we've conducted a suitable whooping crane -- or suitable whooping crane habitat was identified.

Q. And Mr. Hennes testified regarding the project going through a federal NEPA process review. Could you explain what the purpose of the NEPA review process is?

A. When Minnkota's conducting -- or Minnkota's requesting financing assistance from the U.S. Department of Agriculture, USDA, Rural Utilities Service to construct the project.

The Rural Utilities Service, or RUS, is an agency that administers the USDA's rural development utilities program.

And they're required to complete an environmental analysis prior to approving the financial assistance.

The RUS is following its policies

and procedures, which is titled: Environmental Policies and Procedures for implementing NEPA, in order to assure compliance with NEPA and related laws, regulations and executive orders.

Q. And could you explain what the NEPA review process entails?

A. Sure.

First, an agency files a Notice of Intent, or NOI, to prepare an Environmental Assessment, or EA.

And then it holds scoping meetings that, and then it holds scoping meetings that identify potential project effects and concerns that would be addressed in the EA document. And then drafts a scoping report.

Next step is to draft the EA that discusses the purpose and need, reasonable and feasible alternatives considered, description of the proposed action and reviews the affected environment with impacts and mitigation of the proposed action.

Then the EA is released for a 30-day comment period. Following the comment period, an EA Comment Report is issued with responses to comments received during this

30-day comment period.

Issuance of findings -- next, is issuance of findings by the RUS.

And, also, the RUS is engaged in Section 7 consultation with the U.S. Fish and Wild Service and Section 106 consultation with SHPO and U.S Fish and Wildlife Service.

Q. And Mr. Hennes testified that the NEPA review process provided opportunities for public input, including agency input.

Could you discuss the public input that was provided or the public input -- opportunities that were provided?

A. Sure.

As Mr. Hennes discussed, there have been about 18 open -- about 18 meetings and about 800 people have attended these meetings and we've collected over 300 comments.

For the federal, state and local participation, we've conducted -- or participated in interagency meetings at the Corps' office, agency scoping meetings and county commissioner meetings.

In addition, we've consulted with the Na -- Native American tribes with --

through letters, conference calls, meetings, Missouri and Sheyenne River crossing field reviews, Programmatic Agreement and offered to monitor auger locations in areas of potentially deeply buried sites.

Q. And when does Minnkota anticipate that the RUS will issue its finding?

A. The summer of 2011.

Q. And what is the expected finding?

A. A finding of no significant impact, or FONSI.

Q. And earlier, Mr. Phillips testified that the factors set forth in North Dakota Century Code Section 49-22-09 were considered when selecting the project corridor. Would you concur with his testimony?

A. Yes. A discussion of these factors is provided in Section 8 on Pages 8-1 through 8-4 of the application.

Q. And just focusing on the last two factors in Section 49-22-09, specifically Subdivision 10, which requests information regarding any anticipated effects of selecting the pro -- proposed corridor in areas which are unique because of biological wealth or because

they are habitats for rare and endangered species.

In addition to the information that is provided in Section 8.10 of the Corridor application, is there any other information regarding that factor that you want to present to the Commission?

A. Yes. Sections 5.14, 5.15 and 5.16 of the application discuss conservation measures that Minnkota will implement to avoid and minimize effects to biological resources in the vicinity of the corridor.

In addition, RUS, Minnkota, U.S. Fish and Wildlife Service are determining the appropriate conservation measures for federally-listed species through the Section 7 consultation process.

A few of these proposed conservation measures include designing and siting the transmission line and structures according to the Avian Power Line Interaction Committee, or APLIC, 2006 suggested practices for avian protection on power lines and mitigating bird collision with power lines, called State of the Art in 2006.

Marking the shield wires of the transmission line within 1 mile of a suitable habitat.

Constructing the Missouri River crossing in late fall or winter.

Also conducting preconstruction surveys for piping plover nesting areas within the right of way.

If act -- active nesting areas are identified during surveys, Minnkota will propose to maintain a, a half-mile buffer of these nesting areas.

And we're also going to conduct ground clearing and tree removal in the fall and winter prior to the nesting, nesting season.

If the right of way is not cleared in the fall or winter before the nesting season, qualified biologists would conduct surveys of active ground-nesting birds prior to construction and provide a construction buffer.

And as a result, the impacts of the project on vegetation, wildlife and sensitive species ex -- is expected to be minimal.

Q. And with respect to Subdivision 11

of Section 49-22-09, are there any problems or concerns raised by federal or state agencies or local entities that are not specifically addressed in Section 8.11 of the Corridor application?

A. I'd like to discuss -- or I'd like to address some of the comments provided by the North Dakota Department of Parks and Recs, Recreation, I'm sorry, since it may not be readily apparent from the application how these concerns were addressed.

The Department recommended selecting the southern corridor identified on the preliminary corridor map and avoiding the Cross Ranch Nature, Nature Preserve, ob -- obtaining appropriate permits to cross any federal Land and Water Conservation Fund properties.

Minnkota did utilize the southern corridor.

In addition, the proposed corridor does not cross the con -- Cross Ranch Nature Preserve and all federal Land and Water Conservation Fund properties have been avoided.

We've also spoke with The Nature

Conservancy regarding their properties near the Cross Ranch Preserve and in Sheridan County. These properties have been avoided.

In addition, Minnkota continues to consult with the U.S. Fish and Wild Service regarding appropriate line marking measures.

Q. And have any agency comments been received since the Certificate of Corridor Compatibility application was filed?

A. Yes. The Environmental Assessment Comment Report was issued after the Corridor application.

Q. And that is Exhibit 20. Could you explain what the Environmental Assessment Comment Report is?

A. It's a report issued by the Rural Utilities Service that documents comments and responses that were received during the 30-day EA comment period.

Q. And when was that issued?

A. March of 2011.

Q. And in your opinion, based on your study and review, the Exhibits and testimony presented here today and the siting statutes and rules, will construction of the proposed

project within the proposed project corridor produce minimal adverse environmental effects?

A. Yes.

MS. SMITH: I have no further questions.

MR. WAHL: Mr. Sagsveen?

CROSS-EXAMINATION

BY MR. SAGSVEEN:

Q. Did Minnkota consult with you if a landowner believed his or her land was suitable for irrigation?

A. Did Minnkota consult with me?

Q. Yeah. On a, like a site specific basis?

A. No, we didn't do any irrigated land or suitable irrigated land studies.

Q. Do you know who that would have been, if that, if that would have taken place on the staff --

A. It --

Q. -- or --

A. -- may have taken place between -- or discussions between a landowner and a right of way agent.

Q. Do you know, are, are there any of the witnesses that testified today that would maybe have looked into that in more detail?

A. Perhaps Mr. Phillips.

MR. SAGSVEEN: I don't have any further questions.

MR. WAHL: Mr. Lein?

MR. LEIN: Just one.

Can you clarify when the piping plover breeding season is? Do you have dates?

THE WITNESS: Yeah, it kind of, kind of depends on basically weather conditions, but the surveys would probably be conducted in April or May.

MR. LEIN: So, I mean, when would their nesting season be over with so you could start construction in these areas?

THE WITNESS: I, I would say May. I mean, you know, I, I guess --

I, you know, I -- that's kind of a, it's kind of a tricky question.

MR. LEIN: I've heard --

THE WITNESS: But --

MR. LEIN: -- June 15, on, on, like nesting seasons in general; is that --

THE WITNESS: Right. That -- well, yeah, April, May's kind of when the nesting activity is, but then there's kind of a flooding --

MR. LEIN: Okay.

THE WITNESS: -- fluctuation in breeding seasons, which, you know, can last up until August.

MR. LEIN: Oh, okay.

No further questions.

MR. WAHL: Questions from the Commission?

Commissioner Clark.

MR. CLARK: Feel free to kick this to somebody else or -- if Minnkota's going to be responding to it, you can let me know.

But thi -- this issue of Highway 200, I don't know if that was in, within the scope of your review on the, the environmental and, and cultural issues, but Mr. Weckerly brought up the idea of, you know, why not run it along 200 as opposed to the, the corridor that was chosen.

Are you able to comment on that or talk to that at all?

THE WITNESS: Yeah, well, Highway 200 has got a lot of residences, businesses and towns that would, that would need to be avoided. And so that was kind of -- you know, residences is one of our main criteria, so we decided to not follow through with that particular corridor --

MR. CLARK: But that --

THE WITNESS: -- and select another one.

MR. CLARK: Would --

Highway 200 was one of the main corridors that was studied, though, right? That Macro-Corridor. Is that correct?

THE WITNESS: Correct.

MR. CLARK: Okay. It would just be the southern Macro-Corridor basically?

THE WITNESS: Correct.

MR. CLARK: Okay.

THE WITNESS: You're talking about Exhibit 5?

MR. CLARK: Right.

THE WITNESS: 4 and 5 basically?

MR. CLARK: 4, 5, right. There's some, some of those Exhibits that basically

relate to the, the windowing process that Minnkota took to arrive at the corridor that it chose?

THE WITNESS: Correct.

MR. CLARK: Thanks, that's all I have.

MR. WAHL: Further questions from the Commission?

Anything further, Ms. Smith?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: Can I have just a couple minutes to confer with Mr. Lein?

MR. WAHL: You may.

MR. SAGSVEEN: No further questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions.

MR. WAHL: Thank you very much, Mr. Hunker.

MR. CLARK: Say, Judge?

I do have one --

MR. WAHL: Commissioner Clark.

MR. CLARK: I do have one more --

MR. WAHL: Just --

MR. CLARK: -- that --
MR. WAHL: -- a moment.
Commissioner Clark.
MR. CLARK: -- sort of occurred to me.
On this -- I know it's been balancing, but the Macro-Corridors that, that Minnkota looked at, as far as its corridor analysis.
Even if 200 was to -- had been chosen, the transmission lines would still be in fields, correct? I mean, it's not literally in the, the road right of way, even if, even if that would have been chosen. Is that right?
THE WITNESS: Probably.
MR. CLARK: And so it'd just be a different set of landowners.
But the, the, the issue of actually being in the, in the field proper still exists whether it was on 200 or the route that was chosen?
THE WITNESS: Right. As far as like sharing corridors, you know, so if you share a corridor with the North Dakota Department of Transportation, --

MR. CLARK: Uh-huh.
THE WITNESS: -- within right of way, it wasn't Minnkota's preference to share a corridor. They wanted to abut the corridors -- or, I'm sorry, abut the rights of way.
MR. CLARK: Is, is that a -- is, is sharing a corridor an option with the North Dakota DOT?
THE WITNESS: We can -- I mean, we, we have done analysis of a corridor along Highway 200.
MR. CLARK: And would that have been out of the -- out of producers' fields?
THE WITNESS: Well, the corridor is, is 6 miles wide, so --
MR. CLARK: I'm just, I'm just --
THE WITNESS: I mean, yeah, --
MR. CLARK: -- wondering. And then -- and maybe we're getting corridor and route confused here, but --
I mean, can a transmission line actually be placed in, in the DOT right of way itself, where it's outside of, of agricultural production?
THE WITNESS: Yeah, you know, I'm

going to, I'm going to have to --

MR. CLARK: Okay.

THE WITNESS: -- kick this one to our rights of way agents. I'm just not very familiar with some of the, the right of way discussions.

MR. CLARK: Okay. Thanks.

THE WITNESS: Okay.

MR. WAHL: Anything further from the Commission?

Ms. Smith, anything further?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen, anything further?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No, your Honor.

MR. WAHL: Thank you very much, Mr. Hunker.

(Whereupon, the witness was excused.)

MR. WAHL: Ms. Smith?

MS. SMITH: I have no further witnesses.

MR. WAHL: Mr. Sagsveen, anything

at this time?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Okay. This morning I said that at completion of Minnkota's presentations, I would recess for whatever time it takes to answer any questions from anyone.

Now, I think, I suspect I've talked to everyone who wants talk to me.

If that's true -- that's not true. We'll be in recess for ten minutes.

(Whereupon, a nine-minute recess was taken.)

(Whereupon, Mr. Tony Clark is not present.)

MR. WAHL: All right. Let's be in order, please.

We will begin with public testimony. Just please come forward. I'm not going to call anybody in particular.

Please be comfortable.

State your name for the record.

MR. ELLSWORTH: Terry Ellsworth.

MR. WAHL: Mr. Ellsworth, in your case, I think, what is your business address and post office address?

MR. ELLSWORTH: 3425 Miriam Avenue; Bismarck, North Dakota.

MR. WAHL: And on whose behalf do you appear, si -- Mr. Ellsworth?

MR. ELLSWORTH: I'm here on behalf of the U.S. Fish and Wildlife Service.

MR. WAHL: Mr. Ellsworth, as you well know, having done it many times, your testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the oath.

Perjury is a false statement of material fact which you do not believe to be true.

In North Dakota, perjury's a class C felony, punishable by a fine up to $5,000, imprisonment for a period of five years or both.

Will you raise your right hand, please?

Being advised regarding perjury, Mr. Ellsworth, do you swear that the testimony which you are about to give in this case shall be the truth, the whole truth and nothing but the truth?

MR. ELLSWORTH: I do.

T E R R Y E L L S W O R T H,
being first duly sworn, testified on his oath as follows:

MR. WAHL: You may proceed.

MR. ELLSWORTH: Dear Commissioners, thank you for the opportunity to provide testimony to the Public Se -- Service Commission today.

I am a Fish and Wildlife biologist --

(Whereupon, Mr. Tony Clark re-entered the room.)

MR. ELLSWORTH: -- for the U.S. Fish and Wildlife Service, Ecological Services Office, in Bismarck, North Dakota.

Our office is in the process of consulting with the USDA Rural Utilities Services and Minneso -- Minnkota Power Cooperative on the proposed Center to Grand Forks transmission line project, pursuant to Section 7 of the Endangered Species Act.

The Service has a responsibility to

administer a number of environmental laws and regulations to protect the nation's fish and wildlife resources, such as the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, the Endangered Species Act and the National Wildlife Refuge System Improvement Act.

We also have responsibilities under the Fish and Wildlife Coordination Act, the Clean Water Act and the National Environmental Policy Act.

The Rural Utilities Services has responsibilities under Section 7 of the ESA to consult with and receive concurrence from the Service before rendering a decision on funding this project.

The Service supports the responsible development of renewable energy sources and of electric transmission infrastructure; however, transmission line development projects can present significant threats to wildlife and their habitats.

In general, the wildlife resources and issues that were in consideration during plod -- project planning include migratory

birds, for example, the potential for habitat fragmentation, collisions and electrocutions, federal land interests, native wetland prairie and woodland habitats and threatened and endangered species.

By letter dated December 10, 2010, the Service provided substantive comments on the Rural Utility -- to the Rural Utilities Services on their draft Biological Assessment of effects to threatened and endangered species.

The Service informed RUS that we did not concur with their determination of effects under Section 7 of the ESA for the endangered whooping crane and interior least tern and the threatened piping plover.

The Rural Utilities Service is in the process of revising their Biological Assessment in response to our comments.

The Service will then review RUS's revised Biological Assessment and either concur or nonconcur with their determinations.

The Rural Utilities Service has also not completed the early coordination required to obtain right of way permits to

cross Service property interests, including, accepting the refuge division's August 24, 2010 request to become a cooperating agency in the preparation of the Environmental Assessment.

Rural Utilities Service cannot sign a project decision document under NEPA until the ESA requirements and the refuge right of way issues are satisfactorily completed.

Until the above issues have been satisfactorily addressed, the project is not considered to be in compliance with the specified environmental laws and regulations that we administer.

This is not to say that the Service does not believe that the Center to Grand Forks transmission line cannot be built in compliance with federal wildlife laws, but only that RUS has not yet completed the process of consultation under the ESA and the National Wildlife Refuge System Improvement Act.

Thank you for the opportunity to comment on the Center to Grand Forks transmission line project.

MR. WAHL: Ms. Smith?

MS. SMITH: I would just ask, just

to -- these are ongoing discussions that you're having with RUS and with Minnkota. Is that, is that what --

MR. ELLSWORTH: That's --

MS. SMITH: -- you said?

MR. ELLSWORTH: -- correct.

MS. SMITH: Okay.

I have no further questions.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: So when do you estimate the consultation process to be completed?

MR. ELLSWORTH: That depends on what the determination is. If the Rural Utilities Service has a determination that there are adverse effects to threatened or endangered species, then we would go through a formal consultation projec -- process, that has a timeline associated with it.

They would submit their Biological Assessment with those determinations and request formal consultation that would trigger -- then once we've responded to that, we have a thou -- 135 -- or 145 days to produce a Biological Opinion that lets them know

whether we believe that that will result in the jeopardy to the species.

If the -- we can work out the effects informally, there is no timeline for that.

MR. SAGSVEEN: I don't have any, any other questions.

MR. WAHL: Mr. Lein?

MR. LEIN: If -- does this consultation need to be issued or, or finished before the corridor's certificate is established or is this something that would continue on into the route proceeding?

MR. ELLSWORTH: Well, I would, I guess from my perspective, I would hope that we would have this completed, because part of the process is that we don't want to preclude any potential modifications that we could make to bring those potential effects to threatening and endangered species down to that level where we could say that it's not likely to adversely affect them.

So if everything is in place and there's still those adverse effects, it would -- then we would have to go through

formal consultation to work that out.

But part of the NEPA process requires the action agency to not take actions that preclude alternatives with, with less environmental impacts.

So I would hope we could work this out before a permit is issued so that once we go through the Section 7 process, Minnkota wouldn't necessarily have to come back and do whatever they need to do to change their route.

MR. LEIN: Okay. Thanks, no further questions.

MR. WAHL: Questions from the Commission?

Commissioner Clark.

MR. CLARK: Okay. So I understood individually all the words you said, but put together, I'm not sure if I did or not.

Can you sort of talk through, in, in sort of common-man language, when you talk about, you do not concur with RUS on Section 7, I don't know, I can't remember exactly all the things you said, but, but put in context for me, in sort of plain language, what all of that, kind of what sounded legalese, means in

a, in a -- to the real world?

MR. ELLSWORTH: Well, the Endangered Species Act is in place to ensure that the species that are in trouble out there are not jeopardized, that their existence isn't jeopardized.

MR. CLARK: Uh-huh.

MR. ELLSWORTH: So all federal agencies have a responsibility to ensure that any action that they fund or that they carry out or they permit, doesn't facilitate a species going extinct.

MR. CLARK: Uh-huh.

MR. ELLSWORTH: So part of that is this consultation. So we've met with RUS, we've had scoping meetings, we've met with Minnkota.

And we're in the process of working through those issues, to get to the point where the effects to those species are as, as small as they can be.

There are projects that you -- even though you've done everything you can feasible, there's still adverse effects to those species.

There is a process where we can

permit that through our Biological Opinion.

If the, the -- our analysis shows that it's not going to cause an extinction of the species or jeopardize their continued existence, then we can issue a take for that.

So the process doesn't stop any projects, but it just ensures that everything is done prior to the, the project being built that can minimize those effects to threatening and endangered species.

MR. CLARK: Okay, thanks.

Now the -- when you said you did not concur with RUS, does, does it imply there was some sort of preliminary finding that RUS made that then you were assessing and, and you have a difference of opinion with them on, on that?

MR. ELLSWORTH: Yes. They, the Rural Utilities Service provided us with a draft Biological Assessment. And the Biological Assessment is the federal agency's analysis of what the effects of their project are -- or is on threatened and endangered species.

And we did not agree with their

determinations in that draft Biological Assessment.

MR. CLARK: And were there --

MR. ELLSWORTH: So the, so the --

MR. CLARK: Oh, go ahead.

MR. ELLSWORTH: -- comments we sent back, addressed where we felt that we had differences.

MR. CLARK: At a, a fairly high level, could you give me an indication of what, what those differences of opinion were?

MR. ELLSWORTH: Well, --

MR. CLARK: Without getting into the weeds too much, I mean, --

MR. ELLSWORTH: Just as an example -- well, I'm, I'm not sure how I can do this, because we are still in deliberations --

MR. CLARK: Okay.

MR. ELLSWORTH: -- with them.

It's still a deliberative process right now and I'm, --

MR. CLARK: Okay.

MR. ELLSWORTH: -- I'm a little reluctant to provide specifics in, in this venue, because we are still working with the

agency.

Suffice it to say that we felt that the, the measures that they had built into the project were not sufficient to determine that the effects were not, were not likely to be adverse.

MR. CLARK: Okay. I mean, without -- I don't want to pin you down to anything in particular, but does it, does it tend to be things like diverters and, and so on and so forth or avoiding certain management areas or -- is, is that typical of the kind --

MR. ELLSWORTH: Yes.

MR. CLARK: -- of negotiations?

MR. ELLSWORTH: Yes. It, it can, it can be timing of projects, it can be locations, different construction methods. There's, there's a number of different means to minimize those effects. And that's, that's kind of where we're at right now, is we're, we're in negotiation with trying to get to that point.

MR. CLARK: Okay, thanks.

MR. WAHL: Further questions from the Commission?

Commissioner Kalk.

MR. KALK: Thank you, Terry, for your testimony.

Kind of follow what Tony was talking about, okay. You know, I used to do NEPA in a former li -- former life, so I know it a little bit, but enough to get in trouble usually.

It'd be my guess that, that there can't be a finding of no significant impact unless they have your concurrence. Would that be a fair statement?

MR. ELLSWORTH: Yes, that's correct.

MR. KALK: Okay. So if you get to a point where, where you, where you, you cannot agree with that, then does it go to a full-blown EIS, and you then have, would have to pu -- mitigate whatever it is they're going to do?

MR. ELLSWORTH: Well, if, if the Environmental Assessment indicates that there are significant effects, that would require an EIS.

MR. KALK: And then, then that

would restart the time frame for the whole environmental review or would it just extend it out? Kind of the same thing, I guess. But that would not be a, a quick solution by any means, would it?

MR. ELLSWORTH: No.

And, and let me back up, too. One thing, if the Rural Utilities Service, in, in their determination, says that there was no effect, and, and it's something they, they could do, we don't concur with a no effect.

On a no effect, an age -- a federal agency can go forward with a project without our concurrence.

If it's -- if the determination is may affect, not likely to adversely affect, then they need us to say we agree with that.

As an -- our agency, to, to say we agree that the effects are, are insignificant or discountable. That's what not likely to adversely affect means.

MR. KALK: Okay. And then I just had one question. The -- previous hearings we've had, I asked about why the company didn't have to prep -- prepare a habitat conservation

plan.

Is that right or -- and could you ask -- could you explain maybe why, if it is right, because other projects will have -- that seems to be a deal breaker.

MR. ELLSWORTH: Yes. The habitat conservation plan is Section 10 of the ESA and that's for a, a project that has no federal nexus. So there's no federal funding, no permits, no, --

MR. KALK: Okay, okay.

MR. ELLSWORTH: -- no federal involvement whatsoever.

Then a -- an individual or a company produces a habitat conservation plan if they believe that their project is going to take threatened or endangered species, which is kill or injure them, then they would produce a habitat conservation plan, submit that to the Service with an application for an incidental take permit.

And then that gives them legal coverage if and when threatened or endangered species was killed by their projects.

MR. KALK: So in a federal nexus,

the, the BA and the BO, --

MR. ELLSWORTH: This --

MR. KALK: -- that's what -- that's the coverage, as long as you're working with them?

MR. ELLSWORTH: Yes. This is --

MR. KALK: Okay.

MR. ELLSWORTH: -- Section -- Section 7 of the ESA is interagency coordination.

So that provides the federal agency needs to coordinate with the Service to ensure their, their actions don't jeopardize species.

So that's the difference. Section 10 is completely private, Section 7 is a federal action.

MR. KALK: Okay. Thank you.

MR. WAHL: Further questions from the Commission?

Anything further, Ms. Smith?

MS. SMITH: Just a couple.

I just want to clarify. So you're saying you still can work out measures with RUS and Minnkota that allow you to sign off on what has been proposed in the Biological Assessment

and not require a Biological Opinion. Is that right?

MR. ELLSWORTH: We hope --

MS. SMITH: I --

MR. ELLSWORTH: -- so, yes.

MS. SMITH: Okay. And there are -- then you could have that ability without necessarily changing the project corridor. Is that true as well?

MR. ELLSWORTH: That's possible.

MS. SMITH: Okay. And I think this is what -- all -- everything that you've been talking about is part of the Nat -- National Environmental Policy Act process, or the NEPA federal process. Is that true as well?

MR. ELLSWORTH: Well, the, the Endangered Species Act is a separate --

MS. SMITH: Okay.

MR. ELLSWORTH: -- process.

The National Environmental Policy Act, part of that says you need to make sure there's no significant impacts. And threatened and endangered species are one of the issues that need to be covered under that National Environmental Policy Act.

So federal agencies need to ensure that their actions don't, again, jeopardize the continued existence of species. So it's a separate law.

MS. SMITH: Okay.

MR. ELLSWORTH: But typically the NEPA process includes the threatened and endangered species as one of the issues that's considered.

MS. SMITH: Okay. And it's -- so that's the -- all the federal process is -- and it's not part of this particular state process?

MR. ELLSWORTH: That's correct.

MS. SMITH: Okay. I have no further questions.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No further questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions.

MR. WAHL: Anything further from the Commission?

MR. CRAMER: No.

MR. WAHL: Thank you very much, --

MR. ELLSWORTH: Thank you.

MR. WAHL: -- Mr. Ellsworth.
(Whereupon, the witness was excused.)
MR. WAHL: Next, please.
Please state your name for the record.
MR. WAGNER: Alan Wagner.
MR. WAHL: W-a-g-n-e-r?
MR. WAGNER: Correct.
MR. WAHL: And, I'm sorry, your first name?
MR. WAGNER: Pronounced Alan, spelled: A-l-a-n.
MR. WAHL: Mr. Wagner, what is your residence address?
MR. WAGNER: 46200 Highway 41, at Wilton, North Dakota.
MR. WAHL: Is that the same as your post office address?
MR. WAGNER: Yes, it is.
MR. WAHL: And, Mr. Wagner, do you -- are, are you speaking on behalf of any group or organization?
MR. WAGNER: Just myself and extended family.

MR. WAHL: All right. Mr. Wagner, as you heard me advise previous witnesses, your testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the oath.

Perjury is a false statement of material fact which you do not believe to be true.

In North Dakota, perjury's a class C felony, punishable by a fine up to $5,000, imprisonment for a period of up to five years or both.

Will you raise your right hand, please?

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

MR. WAGNER: I do.

A L A N W A G N E R,

being first duly sworn, testified on his oath as follows:

MR. WAHL: You may proceed.

MR. WAGNER: Gentlemen, I thank you for your time.

I came here somewhat misguided in thinking this would be more of a route hearing than it is a corridor hearing. And thank God I got here to the corridor hearing.

My request of you is that I'm going to charge you with a decision that's going to affect at least six or eight next generations, including your own.

When you do things with the land and you change the way of life of people in North Dakota, it isn't just taking their property, it is making them look at things that they don't want to see when they get up in the morning.

Mr. Weckerly had a good idea with the underground power line, okay. And the power company states that that's not cost effective.

But at least three out of four of their witnesses said at least four times in each one of their testimonies, that they were a not-for-profit.

Why would they be concerned with the cost if they have to spout that they are not-for-profit.

There are other questions that I have regarding EMFs.

It was either the second or third expert person that testified for Minnkota Power in one of the meetings that I attended, and I've attended many of them, and the -- this topic of discussion was EMFs. And I stated that I'm concerned about that.

And he looked at me and he said: I understand, he said, my wife has a daycare. We are located near a substation. People have pulled their children from the daycare because of the fear of EMFs.

Now, they can't prove today that there is possible damage from EMFs or there is not. 30 or 40 years ago, cigarettes posed no threat. Your butter posed no threat. How do we know.

Now, there are many other questions and what I'm going to ask you to do today, is not approve the thousand-foot corridor. And the reason for that is if there are things that

come up later on, they cannot move outside of that corridor to make an adjustment. Am I not correct in that assumption?

MR. WAHL: I -- I'm so -- I'm, I'm sorry, Mr. Wagner, they -- the Commissioners do not respon -- cannot re -- actually respond to questions.

MR. WAGNER: Okay, I apologize.

MR. WAHL: You can put it to them, --

MR. WAGNER: Okay.

MR. WAHL: -- that that's something that they --

MR. WAGNER: So --

MR. WAHL: -- should consider.

MR. WAGNER: -- remember the question in, in that case, okay.

There are so many situations that exist. And you have to understand that me being here, I care about the land, but at the same time, my main concern is for me.

Everybody here has that same concern, okay.

So -- I'm sorry, and I -- I'm a, I'm a game and fish person, I hunt, I am a

conservationist, but when it comes to deciding if my grandson gets leukemia because of EMFs or a piping plover loses their nest, where am I going to vote. Okay.

There are so many little things that -- one of the things personally that concerns me is where I live, which is in your Exhibit 12b, Section 1, 144-80.

You'll notice there are five homes right along the highway. Okay. There are four inhabited premises. They are coming up through the middle of the section, which makes absolutely no sense to me. And they're doing that all the way from Wilton, on up to where, not only do we get, my family, towers coming up through the middle of our section, but also across the north end, where they make a turn.

And they can't tell us exactly where they think they're going to go with those.

So why should we decide to accept they're going to put them there.

Now, I don't want to see them. I don't understand why they think it is more cost effective to run up through the middle of the

section than it is on a section line.

In a lot of situations, you have two landowners that you have to deal with when you go up through the middle of a section. On a section line, you normally don't. You may have two, but not on the same half mile. If you stay on one side of the section line or the other.

There are other concerns that I know a lot of other people have, when it comes to the value of their land.

There are people that are down by the river that bought land as an investment for resale and development. Okay.

You need to look at that as a different value than prairie someplace.

You need to look at the situation and I will use my own for example.

When they come up to the middle of the land and then come across the top of it again, what does it do to the eventual value of that land?

Who's going to want it?

The other thing is, is that I've not heard anybody say anything about the

situation with CRP, if somebody has land in CRP and they go through it, who's responsible for paying that back? What happens in that situation?

If I may look at my quick notes.

Another question that I have is the, the towers, the poles, so to speak, that they are putting up, are 60 feet deep or whatever concrete, okay.

What is the effect going to be on the aquifer?

In my area, you start hitting water at about 40 feet or less. And you go through another vein of water about every 15 to 20 feet. What's eventually going to happen to that?

Is there anything with the Public Servan that's -- Public Service Commission, that's going to address that now or later?

The other thing is, is that when they take this land for 99 years, and there are people here today that I've talked to, that their parents, these are people that are my age, in their sixties, their parents allowed power companies to put towers on their land in

the '70s. They received $75 a tower. Okay.

Yes, you're talking more money now, but look how the value of that land changed in the last 35 and 40 years. Now this easement is for 99 years.

Okay. So if they take today's value of an acre of land, given any type of land or soil types, and they're going to pay for you that, okay, that's a, that's a one-time deal.

Now that 99 years is going to be over at least five generations. Like in my situation, my mother's 86, I'm just about 62, my daughter's 29, I have a three-year-old grandson. And there's at least going to be two more generations after him.

Okay. In that 99 years.

They have to put up with looking at that, farming around it, having devalued land.

I would like them to be able, them, meaning, Minnkota Power, when they determine land values, to extrapolate that over what the projection could be.

Now, not to the extent if you went back 50 years from now and took land values and

took them to now, okay. We're looking at values of land back then of $2 and $25 an acre, okay. Versus what there is today at 6, 800 and up to 4,000, okay. That should be taken into account and considered.

Let me see. One of the other things, getting back to the EMFs. One of the experts testified that when they get to a situation where there could be possibility of any problem with the EMFs when they're in real close proximity to residences, that there's equipment that they can install to, and I may have misunderstood, that would curb, for a better term, the extent there could be any EMF coming off, okay.

Why can't they do that at any time when they are within, half mile, three-quarters of a mile of any inhabited farmstead.

The other thing that concerns me is, if they go through there now -- I mentioned earlier that I have a daughter, lives in Montana, wants to move back here a year from now.

Where she and my son-in-law plan to build their home is where they're proposing

this route. She can't be there.

There needs to be a way to be able to work together to put this where it -- and it -- we can't stop progress, other than if they get their heads out of their butts and put the wind towers where they need the power.

There's got to be a way to work together for the benefit of everybody.

The other thing that concerns me, and this, again, is with -- directed toward the Public Service Commission. North Dakota has been raped for so many years from our resources. We have coal, we have oil, we now have wind. And this is also, for the majority, going to leave our state.

You need to pay attention to what we have and keep it.

I thank you.

MR. WAHL: Ms. Smith?

MS. SMITH: I have no questions.

MR. WAHL: Mr., Mr. Sagsveen?

MR. SAGSVEEN: I have no questions.

MR. WAHL: Mr. Lein?

MR. LEIN: What section were you in?

MR. WAGNER: Section 1.
MR. LEIN: Okay, thanks. No further questions.
MR. WAHL: Questions from the Commission?
MR. CLARK: I do.
MR. WAHL: Commissioner Clark.
MR. CLARK: Just briefly. One of the things that's, that's often times helpful for the, the Commission -- understand, it is never easy to site transmission lines, I mean, --
MR. WAGNER: Right.
MR. CLARK: Yeah, I mean, it's -- I'm very empathetic to landowners, because I'd probably be in the same boat. And I've yet to meet somebody who's excited about a transmission line coming across their property.
It -- it's sometimes helpful, if you -- do you have a, a suggestion, sort of knowing the area that you do, is, is there a route that you think would -- or a corridor --
MR. WAGNER: Yes.
MR. CLARK: -- that less -- lessens and mitigates some --

MR. WAGNER: Yes.
MR. CLARK: -- of the impacts that you're --
MR. WAGNER: I do.
MR. CLARK: -- talking about.
Okay.
MR. WAGNER: And I talked to the people about this with Minnkota Power at all of their meetings.
It involved the, the possible corridor that they had set up farther west.
And I can't give you the exact legals or anything else.
If they were to go further to the west, and they could cross the Garrison Canal on the east side of -- I'm sorry, I need to go here.
Okay.
MR. WAHL: Or you might try looking at Exhibit 4, Mr. Wagner?
MR. WAGNER: In here?
MR. WAHL: Yes. It -- maybe that would orientate you.
MR. WAGNER: I'm sorry, I don't mean to take up everybody's time.

MR. WAHL: No. We're here to listen to you.

MR. WAGNER: Okay.

MR. WAHL: I don't know --

MR. WAGNER: I don't --

MR. WAHL: -- if that's any help --

MR. WAGNER: No, --

MR. WAHL: -- or not.

MR. WAGNER: -- it isn't. It's going to be better --

MR. WAHL: Okay.

MR. WAGNER: -- to go where I was.

MR. CLARK: Probably 12b.

MR. WAHL: Okay.

MR. WAGNER: Okay. On Exhibit 12b, corridor maps.

If they were to go further west, with -- coming up through there. And they're going to be angling anyway. There is the new Johns Lake -- or it'd be the West Park Lake. And there is a wildlife management area up there or whatever.

Let me see if I can help you find where I'm talking about.

You see, I believe it's Fifth

Street Southwest, right above the red line on Exhibit 12, where it curves on Highway 41?

MR. CLARK: Is it a north-south road or is it a -- I see --

MR. WAGNER: Highway 41's a north-south --

MR. CLARK: Yep.

MR. WAGNER: -- road from Wilton to Mercer.

MR. CLARK: Yep.

MR. WAGNER: Mercer's not on the map.

MR. CLARK: Right.

MR. WAGNER: Do you see where they co -- cross the Garrison Diversion? On their proposed red line?

MR. CLARK: Uh-huh.

MR. WAGNER: Okay. If they moved several miles to the west and came up through there, and stayed on the east side of what is called West Park Lake, there's a very, very narrow spot there in the canal where they could cross.

It's about the same width crossing as it would be, maybe a little bit wider, as it

is at the highway, the bridge on Highway 41.

MR. CLARK: So, in other words, your recommendation would be, push that line -- how far west would that be to --

MR. WAGNER: They could come up from the south further to the west.

MR. CLARK: Right.

MR. WAGNER: And, and my recommendation is -- and I, and I realize we can't stop this, okay.

MR. CLARK: Yeah.

MR. WAGNER: Why do they want to go up through the middle of a section when they could be on a section line?

Isn't that -- doesn't that make more sense than having to negotiate with -- a lot of times a section, same owner, doesn't own both halves of the section.

And on a section line, even if that situation exists, it's going to be on a corner line usually. They -- and you don't have to negotiate with two owners, one on each side of the line.

MR. CLARK: Yeah. Is there a chance that putting it on the section line

involves more residences, though? I mean, that --

MR. WAGNER: No.

MR. CLARK: In this case?

MR. WAGNER: No, you're further away from them.

I'm not saying move it just for me.

MR. CLARK: Right.

MR. WAGNER: I'm saying, pay attention for everybody.

And if you approve the thousand-foot corridor, they -- you can't have them move it. They're locked in that thousand-foot corridor.

MR. CLARK: Okay. Thanks, that's all I have. Thank you for your time.

MR. WAHL: Any further questions from the Commission?

Commissioner Kalk.

MR. KALK: Just one quick question. How deep --

MR. WAGNER: Sure.

MR. KALK: -- did you say the ground water is in your area?

MR. WAGNER: When you drill a well

in my area, you will start hitting coal-water, is what we refer to it as, at about 25 feet. 40 feet for sure. And it's about every 12 to 20 feet you'll go through another vein.

You do not hit good water until you're at about 330 feet.

MR. KALK: Okay. Thank you.

MR. WAGNER: Okay.

MR. WAHL: Further questions from the Commission?

Follow-up, Ms. Smith?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sags -- Mr. Sagsveen?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No, your Honor.

MR. WAHL: Thank you very much, --

MR. WAGNER: Thank you, gentlemen.

MR. WAHL: -- Mr. Wagner.

(Whereupon, the witness was excused.)

MR. WAHL: Please be seated, Ms. Thompson.

I note for the record, Ms.

Thompson, that you testified at the hearing for this case that was held in Northwood.

MS. THOMPSON: Yes, sir.

MR. WAHL: And, of course, you understand that your testimony here today continues under oath and subject to penalties of perjury?

MS. THOMPSON: Yes, sir.

G E N E V I E V E T H O M P S O N,

being previously first duly sworn, testified on her oath as follows:

MR. WAHL: All right. You have an Exhibit which you have marked, but we need to do a little bit to get it into the record.

MS. THOMPSON: Your Honor, those copies are for the Commissioners. And then I have a hard copy for the, for the record as well. That I'll give --

MR. WAHL: So --

MS. THOMPSON: -- to Ms. --

MR. WAHL: -- this is all that you brought?

MS. THOMPSON: Four. I should have

brought eight.

MR. WAHL: You need one for the lawyers, too, but --

MS. THOMPSON: Oh, okay.

MR. WAHL: I -- that's all right. We'll get one for the Commissioners.

MS. THOMPSON: Okay.

MR. WAHL: Ms. Thompson, you have what has been marked for identification as Thompson Exhibit 1.

Will you please state who and how that Exhibit was prepared briefly?

MS. THOMPSON: Yes, your Honor.

We, at our last gathering, spoke about where the specific area was and we wanted to provide a, a -- some spacial data.

I should preface by saying, the Eastern Interconnection States Planning Council, their energy development commission has now agreed to work with APLIC and Audubon is a par -- a part of that. So next time, the data will be of a lot higher quality.

But in the interim, what we did was use some of the data that we've already had, spacial data from the Grand Forks County

Prairie Partners, that we referred to.

So I can really quickly go through just what these are.

The first --

MR. WAHL: No. All I want you to do, --

MS. THOMPSON: Oh.

MR. WAHL: -- just tell me how it was prepared and who prepared it.

MS. THOMPSON: Okay. It was a combination of the Grand Forks County Prairie Partners, one of whom will testify after I do today.

And so it was, it was individuals from that.

And then the last page was prepared from North Dakota Game and Fish, because there is a focus area, so that was part of their comprehensive planning that they had to do. And it just depicts their -- the focus area.

MR. WAHL: All right. And tell me then, please, what does the Exhibit show?

MS. THOMPSON: Okay. And I'll go really quickly out of respect for others here, and the fact that this isn't my first time in

this chair.

The first Exhibit is basically just an overview.

MR. WAHL: The first page.

MS. THOMPSON: I'm sorry, the -- yep. Page 1 of Thompson Exhibit 1 is an overview of not only the, what, what I've been calling the alkali flats, or Grand Forks prairie area, it also just puts it in the context of the native prairie that's in existence north of Highway 2.

It shows Kellys Slough. And that's just to give it a context, that there is some habitat connectivity there. And it -- you know, that it's important in and of itself as saline prairie, but in conjunction with what's to the north.

And then the second page of Exhibit 1 just shows a, a close-up primarily of Oakville and Fairfield Township.

And, again, the, the best way to describe where the native prairie is, is it's the fu -- quote, fuzzy area, you can't see clearly demarked agricultural lands.

So it's, it's kind of where those

blur, there's no clear roads bi -- bisecting it.

The third page loo -- just highlights a few of the water features, to give you an orientation.

Compar -- and I'm, like I said, I'm sorry, you're flying blind. It just gives a few of the water features and some of the beach ridges.

And then the fourth -- Page 4 of Thompson Exhibit 1 puts it in the context of the route that's currently proposed.

And it does just highlight a, a few of the amenities. There's some school trust land that's native prairie, some bison pasture.

And then the fifth page is -- they were not able to be here today, but I did meet with the Game and Fish individuals, Steve Dyke and Sandy Johnson, they focus on some of the nongame species.

They -- as every state Game and Fish Department had to do a comprehensive plan. This is a part of their comprehensive wildlife conservation strategy.

And what they had to do was

identify important focus areas for the state and species of conservation concern.

They have identified specifically the saline prairie that we were talking about.

They did also clarify that there's about 4,500 acres of wildlife management areas, not in the specific proposed A project footprint, but in the Grand Forks prairie area, in the townships, you know, of Oakville and Fairfield.

So that just -- it, it kind of recognizes the unique nature of the habitat.

Part of the reason it is a focus area, is there is a greater prairie chicken population there.

Yes.

MR. WAHL: You're getting ahead of me.

MS. THOMPSON: Okay.

MR. WAHL: Now on Page 5, --

MS. THOMPSON: Yes, --

MR. WAHL: -- there's a --

MS. THOMPSON: -- sir.

MR. WAHL: -- rose-colored area at the top marked saline area?

MS. THOMPSON: Yes.
MR. WAHL: Is that the area that they've talked about -- don't -- you --
MS. THOMPSON: Oh.
MR. WAHL: It's okay.
MS. THOMPSON: Okay. I'm running back to my seat.
Okay.
MR. WAHL: Okay. That's, that's the area that we have been -- that the Commission has been -- that you have asked the Commission to consider; --
MS. THOMPSON: Yes.
MR. WAHL: -- is that correct?
MS. THOMPSON: That's correct.
MR. WAHL: And is this the, is this the information which, which the Commission suggested -- or I guess what you offered to provide to the Commission in -- at the Northwood hearing?
MS. THOMPSON: Yes, sir.
MR. WAHL: Ms. Smith?
MS. SMITH: Objection, foundation.
MR. WAHL: Specifically what is your objection?

MS. SMITH: We have no idea where the outline for this comes from. What the data is derived from to --

MR. WAHL: What --

MS. SMITH: -- create this map, it's kind of the problem here.

MR. WAHL: Well, it --

MS. SMITH: It's --

MR. WAHL: -- doesn't make any difference, it's, it's their representation of the map.

They, they have a map. Here it is.

If, if you think it's wrong, you can challenge it on, on rebuttal.

Next. Anything further?

MS. SMITH: Well, I guess not.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I have no objections.

MR. WAHL: Exhibit, or Thompson Exhibit 1 is received.

Now, you may proceed, Ms. Thompson.

MS. THOMPSON: The only other things I would say is, in terms of the focal area, that one is from the Game and Fish

Department. They are available if, obviously, if anyone wants to contact them.

They just, like I said, they couldn't be here today, but it was in recognition of the prairie chicken habitat.

What we're working on, I realize it's not necessarily admissible here, but we are working in order to ascertain I -- Important Bird Area status.

We have data from the U.S. Fish and Wildlife Service habitat and population evaluation team on the nine species of grassland birds and where they are here.

We're also working with one of the partners, TNC, on a more definitive update, we just didn't have enough time, they weren't comfortable with the data as it is now being submitted for a formal hearing, so they're, they're updating that.

It's obviously not germane to today, but in the near future. So for helping as the project moves forward to either avoid risk or, you know, minimize impact, those, those data are being worked on.

I think the only other thing I

would say is I think our objective is, again, to look at minimizing the risk to rare native habitat and to respectfully suggest, again, I think, it was either that a -- that other routes exists that would not -- entail no impact to the area.

Last thing I'd conclude with is, one of the things I do is manage about 2200 acres of land. And when you have native prairie, I think part of the value of it is that it is a complex and diverse area.

When you disturb it and then try to mitigate it or restore it, I have about 600 acres of CRP, it's not that easy.

It is -- you know, once it's turned over or once it's disturbed, it's, it's just a real challenge.

It's a resource that's, that's pretty rare in, in our state.

So thank you.

MR. WAHL: Ms. Smith?

MS. SMITH: In this Exhibit that you've got here, could you explain again what the basis of this data is?

MS. THOMPSON: It's a combination

of grass hab -- grass types. And you can tell where the -- there's, there's some areas that are fairly specific, that we know are native prairie. They've never been turned over. You know, they've never been disturbed.

Some of them are -- a lot of it is grassland agriculture because of the nature of the soils.

So what the larger area was on the north side, it's where there's either prairie or protected area. On the sou -- south of Highway 2, it's where it is unfragmented and not cultivated or disturbed.

MS. SMITH: And so this is your estimation of where these areas are located?

MS. THOMPSON: Part of it is estimation and part of it is derived by -- it was a combination, we did a -- it was about eight years ago, an assessment where you just pooled all the data that you had.

You had -- they don't necessarily -- it's like the inverse of cropland. You know, you, you have, you have data files for cropland and then you have other data files that are native grass.

MS. SMITH: And where were those data files derived from?

MS. THOMPSON: It was -- I'm trying to think. It was about -- some of it was about eight years ago.

Some of them were TNC files, some of them were USDA files. It was kind of a, a com -- combination.

MS. SMITH: And was it all agency information that created this?

MS. THOMPSON: No.

Some of it was, some of it was USDA. And like I said, some of it was -- there was a two-day retreat where people brought whatever data they had. Some of it was species data. So it was a combination. Game and Fish data.

MS. SMITH: So some of it was from individuals as opposed to agencies?

MS. THOMPSON: No. It was from either TNC -- I'm just trying -- like I said, it was -- the initial files were prepared several years ago, but there were agencies and organizations at the two-day --

MS. SMITH: Okay.

MS. THOMPSON: -- effort to compile the data.

MS. SMITH: And this isn't a state or federal designated protected area; is that --

MS. THOMPSON: There are -- I think there's 4500 acres of, of wet -- wildlife management areas that are, that are Game and Fish designations, that they manage for wildlife within this region.

And then there's 3500 acres of plots data. Those are -- plots acreages. Those are on private lands. But it's where private landowners get paid from Game and Fish and then the land is open for recreational hunting.

MS. SMITH: I guess what I'm asking, though, is: this entire area has not been designated by a state or federal agency?

MS. THOMPSON: Not the entire area.

MS. SMITH: And native prairie is not protected at the state or federal level. Is that true?

MS. THOMPSON: It would depend -- not as a -- as an entity onto itself. Its

value in this case is because it's got -- it's a saline tall grass prairie that just doesn't exist in very many places. I think, tall grass alone, there's like one-tenth of 1 percent.

This is saline tall grass, so it's --

MS. SMITH: Uh-huh.

MS. THOMPSON: -- got a unique diversity of species, that's why it's important.

MS. SMITH: But landowners themselves would have the ability to do what they chose with their property, if they wanted to farm -- I know this isn't farmland, but if they wanted to farm, they could farm native prairie?

MS. THOMPSON: It would depend. Some of them are restricted.

It -- they're restricted primarily by the fact of -- that the -- with the nature of the soils, it's not cultivatable.

But secondarily, may be restricted --

MS. SMITH: I gue --

MS. THOMPSON: -- by Sodbuster or

Swampbuster, if they're getting any farm payments. That's --

MS. SMITH: Right.

But they're not restricted from utilizing their farmland? There's no state law or federal law that tells them they cannot farm native prairie?

MS. THOMPSON: No. In this case, I think I said last time, they primarily use it for grazing, which is --

MS. SMITH: Right.

MS. THOMPSON: -- beneficial for, for avian management as well.

MS. SMITH: And --

I think that's all the questions that I have.

MS. THOMPSON: Okay.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: You identified the prairie chicken as a -- would you describe it as a unique -- well, it is unique animal, but --

There are some criteria that we have to, to go through this process. And one of those is that -- one of the things to

consider is whether or not the area's where the animal or plant species are is a unique or rare --

And li -- specifically the criteria says: areas where animal or plant species that are unique or rare to the state would be irreversibly damaged.

So can you identify any other animals or birds, maybe, that you might believe would be irreversibly damaged by this project if it went through the, the designated corridor?

MS. SMITH: Objection, that calls for a legal conclusion.

MR. WAHL: Overruled.

She may answer to the best -- or she's obviously informed. She may answer to the best of her knowledge.

MS. THOMPSON: I think in addition to the prairie chicken, and probably the concern from the prairie chicken standpoint is, there are some data that indicate that they will not -- you know, desert elect if there's overhead struct -- structures. They don't like things over them.

The other species that, that I would say -- there are not trust species, you know, the, the plovers and whooping cranes are to the west.

Some of the species that are on the state list of species of conservation concern, would be species that frequent here. Some of the grassland species, some of the Baird's and -- I mean, I can get a list, but there's -- they're declining species, which is why we try to work on ways to, you know, preserve some of those habitats.

But, no, in, in terms of trust species, there aren't -- there, there are rare plants and there are some species that are declining, but not, not where they would be an ESA, a, you know, a Section 7 --

MR. SAGSVEEN: What would be --

MS. THOMPSON: -- consultation.

MR. SAGSVEEN: -- the maj -- can you identify some rare plant species specifically?

MS. THOMPSON: I think -- my, my background is more -- if, if I might defer, there's one other person from Grand Forks

County Prairie that is probably more, just to save the Commission time, more adapt. I can't define the plant species, I'm not a -- I don't have a background in plants.

MR. SAGSVEEN: Well, just so we're clear, and I -- thi -- this'll be my last question, in, in your work with the Audubon society and, and the Prairie, you routine -- do you work with animal and plant species in other parts of the, the state that are unique or rare?

MS. THOMPSON: Probably the closest in this area would be, we work with the Fore -- U.S. Forest Service on grazing management, planning and CRM in the tall grass down in the national grasslands.

And that would be fringe, fringed prairie orchid kinds of, you know, considerations, that I don't think we have in this area. They're, they're more to the south.

MR. SAGSVEEN: Well, what I'm -- my question is: in, in your work, do you work with unique or rare species in other parts of the -- in -- on a routine basis, or not at all or --

MS. THOMPSON: It -- it's specific to location. We work with the -- like I said, we work with the Forest Service and landowners and grazing associations, trying to come up with grazing management strategy and river kind of corridor protection to make those specie -- you know, to protect those species and enable grazing.

MR. SAGSVEEN: I don't have any additional questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions, thank you.

MR. WAHL: Questions from the Commission?

Commissioner Clark.

MR. CLARK: Thanks for testifying again.

The -- I'm sure as you understand that -- and by the questions the Commission asks, we're, we're always trying to weigh in multiple factors and there are lots of things that, that are in rule and law that we -- we're trying to find the, the route that has the least impact on all these different factors, so I --

I'm sure one of the things that made this particular route attractive to Minnkota is, number one, for a good portion of it, it follows an existing transmission line that's there.

And then for another good portion of it, there's nobody who lives there.

So you take kind of two big factors off the table.

Is there a, a preferred route that you think would work better, that, that the Commission could -- or corridor that the Commission could, could consider when weighing all of these different factors, including impacts to, to homes and trying to utilize existing corridors where possible and so on and so forth?

MS. THOMPSON: You bet.

And I don't mean to be redundant, I -- what we had asked was, if the Commission could respectfully look at either Route B, that avoids the area completely, it goes to the south and then it comes up the north-south corridor, I believe it's on the railroad right of way --

MR. CLARK: Uh-huh.

MS. THOMPSON: -- that's, as I recall, zoned primarily industrial.

Commissioner Kalk, at the last meeting, had also mentioned perhaps there was a way, you know, to have some sort of a hybridization, where if to the west, other factors and negotiations made Route A preferable.

But as it comes closer to avoiding this saline prairie area, that it might be a hybrid to then go straight south, south of Highway 15 and then up, up straight, you know, north -- I'm sorry, east along Highway fif -- along Highway 15, and then up straight north along the railroad right of way.

MR. CLARK: Okay. Thanks.

MR. WAHL: Further questions from the Commission?

Commissioner Kalk.

MR. KALK: Ms. Thompson, the -- educate me again on the, the -- native prairie's not protected really by anything, quite honestly, right? I mean, it's -- we -- we've had this discussion a lot in other

hearings about wind towers, whatever it might be.

MS. THOMPSON: Right.

MR. KALK: But when you talked about the Game and Fish, is your sense that it is getting close to being a protected -- and, and I understand this is just your opinion.

MS. THOMPSON: Yep.

MR. KALK: I mean, what are you sensing on that when you talk to the agencies? Because, clearly, I mean, the, the, the folks that are doing the NEPA review are not considering this. So what is your sense at the state level?

MS. THOMPSON: And you're right, and from a NEPA standpoint, or from a trust issues standpoint, that's a sep -- separate set of, set of conditions.

I think the way I look at it, if you look around us, I mean, North and South Dakota are very unique. North Dakota's especially unique.

If you look a little bit to the east, Minnesota has lost all but about 2 percent of the prairie that they had. Iowa is,

I think, 90 something percent cultivated or, you know, disturbed.

One of the things that makes us really unique, and the reason that we have the bird species that we do and the, the, both the diversity and the numbers, you know, the reas -- one of the reasons that we have 50 percent of the waterfowl that breed in the, in the -- North America breed here, is because we still have some of it left.

Part of the reason we have some of it left is because, as I said before, it works with grazing agriculture. You know, they, they can -- there're synergistic and they can exist together.

What we're seeing more now, there are other stressors that are -- you know, Roundup Ready crops that you -- where you don't necessarily have to turn over native prairie. Different strategies for drainage. There's more and more pressure on less and less native grass.

I don't think that a regulation will ever be able to say it's native prairie, therefore, it's permanently protected.

What would probably happen is certain species within there may, you know, be representative and, and be something that starts -- probably, it would be bird species.

To be honest, we try to work not to get species listed. You know, it's -- you want to keep common birds common, you want to keep enough land native prairie. You, you don't have to have Terry doing Section 7 consultations.

So I guess what we see here is, there's a way to avoid this.

There have been a group of people that have done pretty extensive documentation of the species that do use this area.

It is unique, so it -- this isn't the first time there's been development pressures put on it that have been -- not gone forward.

It's, it's special.

MR. KALK: Sure.

MS. THOMPSON: And so I guess from the standpoint of, do I think that it can become, quote, endangered; probably not in the technical sense. But do I think that this is a

rare and unique enough jewel; yeah, I think it is.

MR. KALK: Is this -- and last question, Genevieve, is this the only spot on the corridor, potential corridor that it -- that involves the native habitat?

MS. THOMPSON: I wouldn't be qualified in terms of knowing every inch of where you have native, you know, prairie versus none.

This is the area of, of large contiguous native prayer that is saline, so it's, it's pretty highly unique.

Like I said, we haven't weighed in on, on the other regions, it's -- this is the region we know well, we've been working on it for a while. It's a pending Important Bird Area. And so that's why I focused just on this one.

And it seemed like there, there was an alternative that might be able, you know, to still have the project go forward without, without these kinds of deleterious impacts.

MR. KALK: Thank you.

MR. WAHL: Commissioner Clark.

MR. CLARK: This is just an observation, maybe, more than a question. But I'm -- and I'm sure it's, it's occurred to other folks as, as well, but --

But one of the challenges with trying to protect, quote, unquote, native prairie could be, that while if, you know, if it was written into state rule or law, is that while transmission lines usually aren't popular with landowners, wind farms often times are, and if the indication from the State is that, that native prairie's going to be protected as opposed to, you know, above and beyond others, you're going to see a lot of farmers out there with diskers taking care of their native prairie, which I'm sure you don't want.

MS. THOMPSON: No.

MR. CLARK: I --

MS. THOMPSON: I -- and I, I do know -- we both work a fair amount with wind energy siting and are trying to find those areas where -- looking for strategies where you can avoid, you know, remarkable habitat and, and compensate for other strategies. But you're right, you're right.

MR. WAHL: Further questions from the Commission?
MR. CRAMER: No, thank you.
MR. WAHL: Ms. Smith?
MS. SMITH: I have nothing else.
MR. WAHL: Mr. Sagsveen?
MR. SAGSVEEN: I have nothing, your Honor.
MR. WAHL: Mr. Lein?
MR. LEIN: No questions.
MR. WAHL: Thank you very much, Ms. Thompson.
MS. THOMPSON: Okay, thank you.
(Whereupon, the witness was excused.)
MR. WAHL: Next, please.
Please state your name for the record, sir?
MR. LAMBETH: David Lambeth.
MR. WAHL: Spell your nam -- last name, please?
MR. LAMBETH: L-a-m-b-e-t-h.
MR. WAHL: B-e-t-h?
MR. LAMBETH: B-e- --
MR. WAHL: Oh.

MR. LAMBETH: -- t-h.
MR. WAHL: Mr. Lambeth, what is your residence address?
MR. LAMBETH: 417 Terrace Drive; Grand Forks.
MR. WAHL: Is that also your post office address?
MR. LAMBETH: It is.
MR. WAHL: Mr. Lambeth, you're here on behalf of a group or organization, I believe?
MR. LAMBETH: I'm representing Grand Forks County Prairie Partners.
MR. WAHL: And what is Prairie -- Grand Forks County Prairie Partners?
MR. LAMBETH: This is a, sort of a grass-roots group of people who are interested in, in wildlife, some are interested in plants, some are interested in birds. Probably all are interested in native prairie.
And so our, one of our goals is to preserve, protect, in some cases restore, native prairie wherever possible.
MR. WAHL: All right. Mr. Lambeth, as you heard me advise previous witnesses, your

testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the oath.

Perjury is a false statement of material fact which you do not believe to be true.

In North Dakota, perjury's a class C felony, punishable by a fine up to $5,000, imprisonment for a period of up to five years or both.

Will you raise your right hand, please?

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

MR. LAMBETH: I do.

D A V I D L A M B E T H,

being first duly sworn, testified on his oath as follows:

MR. WAHL: You may proceed.

MR. LAMBETH: Well, I'm here to

speak about the part of the transmission line that's proposed to go over the alkali flats, which has already been discussed a, a number of times today.

And I, first, I should tell you a little bit about who I am and where -- what my perspective is.

I'm a retired University of North Dakota professor. My field was biochemistry, which is not directly related to what we're talking about here today.

My hobby and passion over the years has been as a birder, or bird watcher. And I have probably spent 30 years -- well, not -- at least visited, visited the alkali flats many times a year for more than 30 years. So I feel like I, I know the area quite well.

My interests out there primarily is with birds, as I mentioned.

I have some recognition around the state as, as a -- as knowledgeable about birds, I guess I would say.

I lead tours for the Prairie Pothole Birding Festival in Carrington each year. Same up in the Turtle Mountains. I run

U.S. Fish and Wildlife Service breeding bird surveys and pretty much an avid photographer and, and so on.

It's been of, of, of interest to me that the, the -- I think Minnkota has done a, a, really, an outstanding job, I think, of identifying areas that are designated as various designations as wildlife areas and of the environmental value.

So they have diligently worked to avoid Waterfowl Production Areas, National Wildlife Refuges, Wildlife Game Management Are -- or North Dakota Game and Fish Wildlife Management Areas and the like.

And I know from experience that sometimes these are, even, even a fairly large one might be a quarter section of land, and so they, they are deemed, because of that designation, to have wildlife value.

But here in the case of this corridor, we're traversing 10 miles of grassland.

Which is really quite unique in the Red River Valley. I think probably everybody in this room knows about the fame of the Red

River Valley as, as wonderful ag land, rich soils, very, very productive.

Now the alkali flats is something quite different. And it's widely perceived to be worthless.

Certainly a beet farmer would probably call it worthless, a potato farmer would say it was worthless, so on and so forth.

But the ironic thing is that the worthlessness of this land in some ways has allowed it to survive as a grassland and a grassland which is grazed.

And actually the, the grazing works synergistically with a number of bird species to ensure their survival. They survive well in the, in the grazing environment.

So why is this land worthless to begin with. Well, the geologists basically explained it as being saline ground water, which works its way eastward through North Dakota, under shale.

And when it gets to this point in the Red River Valley, the shale is, is not there. Apparently was eroded away way back, way before the ice age even.

And, anyway, the water under pressure comes to the surface and creates -- or makes the soil saline. In places you can find, you can find springs and seeps and so on, where this water comes to the surface.

The, the, the local people are the ones that call it the alkali flats, that's their terms.

And I think they refer to sometimes relatively small areas where virtually nothing will grow except this little red plant that's called saltwort or, or salicornia rubra, rubra, I think is the right name for it. Same thing you find on the beach lines when you go to the ocean. Same kind of a plant.

So, anyway, the, the -- some of this still is native prairie, some of it has a cropping history, not a very successful one, but it qualifies for CRP, so some of it's in CRP. Some of it is -- about half of it in the alkali flats area, I would say, will be grazed.

So let me speak a little bit about what you would find out there based on, based on my observations, but by numerous other

birders who, who work that area, including several out-of-state people who come and visit the area every year.

You'll find in these grazed grasslands, for example, five species of shore birds, from sandpiper, Marbled Godwit, Wilson's Snipe, Wilson's Phalarope and occasionally willets.

You also will find the western meadowlark. A lot of times old people ask, older people, and I'm not one of them, they ask me: well, where are the meadowlarks? I never see or hear them anymore.

Well, in some cases, it may be because they moved to Grand Forks from the farm, but in other cases, they -- they're, they're not out there anymore.

The, the intensively cropped areas of the Red River Valley will not support, support meadowlarks.

And I run a, a breeding bird surveying up in Pembina County, which goes through intensively -- intensive agricultural land. It's largely vacant land. Because, as others have spoken, so many people have moved

out of the rural areas.

So I run this 25-mile route, making 50 stops, listening three minutes at each stop, looking for three minutes at each stop and I record no meadowlarks on that route. That's been for two years now.

No upland sandpipers, no Marbled Godwits. These classic prairie species are gone from that area.

I run another route, which is in Walsh County, goes from Nash, down to about Johnstown in Grand Forks, in Grand Forks County. Same thing, 50 stops, no meadowlarks, no upland sandpipers, no Marbled Godwits.

Probably als -- up and down the Red River Valley, this is going to be true where the excellent farmland exists.

We have gone past the days of 30, 40 years ago, where there were fixed farm -- farming practices, where there was still grassland, maybe some dairy cows, maybe some other farm animals, some various kinds of crops. It's now become much more of the monoculture, using Roundup in many cases to kill most everything, including those up

along -- plants up along the road.

So I, I bring this all up because in eastern North Dakota, anyway, we still have this wonderful reservoir of birds that are still there.

And will be there probably as long as farming practices don't change too drastically to create conditions where they, where they won't be.

Ms. Thompson's already mentioned greater prairie chickens. This is the northwest most population of prairie chickens in the United States.

The chestnut-colored longspur, which is fairly common in western North Dakota, is at the eastern limit of its range in this area.

In the wintertime -- or in the fall, there are often fairly large numbers of rough-legged hawks, a species that nests in the Arctic, which finds these grasslands where there are these little mammals called voles and they feed on those.

Along with the rough-legged hawk, short-haired owls, and maybe a little later, in

midwinter, snowy owls.

In the summertime, there are northern harriers, red-tailed hawks, Swainson's hawks. U -- all using, using the prairie. So it's raptor rich.

And I could go on.

There's about 50 species of grassland birds which use the area to nest and there's another 50 which uses it in the fall.

It's really a major migration corridor.

Imagine yourself being a grassland bird migrating from Canada to somewhere South, passing down through the Red River Valley, where do you find grassland, you don't find much, except that little strip out there called the alkali flats. Which, by the way, extends 30 miles north, up in, actually up into Walsh County.

We have people come in to the state who are interested in birds, looking for particular ones. And I am going to throw out some names here, just because I, I really want to share what's, what's really special about this area.

I've already mentioned a number. I'll mention it -- in, in addition to those, Yellow Rail, Lincoln's Sparrow, Nelson's Sparrow, Sedge Wren and so on.

So these are all species that still exist here -- exist there.

I want to discuss a couple spots along the route that's being proposed. And by the way, as you know, I, I think it's Exhibit 12j, that shows the diagonal that goes across the English Coulee retention dam.

That dam was created about 25 years ago to protect the city of Grand Forks from overland flooding.

And it -- it's made up of several miles of dike. I would say about, oh, off the top of my head, I'd say about 6 miles of diking for sure. There's a spillway. And basically it's just to hold back a lot of water in, in spring flooding.

The dirt for the dike was -- the, the borrow pits, from which that dirt came, has become pretty valuable wetlands, both open marsh and, and, and marsh itself, that is, cattail areas.

This is a major area now for migrating geese and ducks. They stop over at, at the English Coulee retention dam, using those borrow ponds or borrow pits where, where we now have ponds.

Fairly -- a fair number of species nest there as well.

So my concern is that, here you got hundreds of, and probably even thousands of geese flying in at times during spring and fall migration, and then we're going to put even more transmission lines up there. There's already a, a, a transmission line crossing there. And the proposal is to put the presently discussed transmission line along that same route.

To me, that's a bad idea.

It -- it's, you know, it's another hazard to, to birds.

And, and when we look at the hazards to birds and migration, it's phenomenal, wind towers, transmission lines, you know, it goes, it goes on and on.

And second area I want to key in on is there's been talk about native prairie not

being particularly protected. And, yet, it's a rapidly vasting resource for, for various reasons.

Section 36 of Oakville, this is where the transmission line would start going north after finishing the diagonal, and heading up north into Section 36 of Oakville, three-fourths of that section is, is native -- is school trust land.

Now, the purpose of school trust lands, as I understand it, was to generate income for the schools. They date back to, to the days of settlement, back to homesteading.

But from a biological standpoint, they are native prairie, because the rules of -- for managing school trust land was that it was not to be plowed or cultivated, it was to be used for grazing or haying. And then, of course, then the present use.

The power line is -- the corridor seems to go directly over the northeast quarter of Section 36, which, in my opinion, is the best native prairie left in the Red River Valley.

When it comes to school trust land,

there -- you can look at Game and Fish plots, map, you know, plots, public lands open to sportsmen, they put this publication out every year, very valuable, very, very valuable thing to have.

And I've scanned the Red River Valley looking for school trust land. All I can find is -- left in Grand Forks County, amounts to about less than 2,000 acres.

480 of it, which is right there.

This is, this is land that might well be cultivated if, if -- because I think it is good. It's not quite as saline. It's just a half a mile to the west.

It's got an excellent variety of prairie plants. I go out there to photograph vast flowers sometimes in the spring.

So I guess I, I won't say too much more here.

The transmission lines, of course, are a hazard to flying birds. The, the, the towers provide perches for raptors. I love raptors, I don't think they all have an unfair advantage. They can sit on a tower and survey the landscape looking for prey. I think they

ought to find their prey the old way, not sitting on somebody's tower.

So I -- even though this area does not have that designation of a wildlife refuge, national wildlife refuge or a waterfowl production area or so on, the, the area that Ms. Thompson was showing you, does have some of that in it, but, but the proposed corridor doesn't go over a WPA or a national wildlife refuge, to be clear about that.

Yet, I think I would put this area, like I will state, I bird a lot of places, I would put this area right up with some of the very best areas in the state for its bird life.

And so I would like to see the transmission line go elsewhere.

MR. WAHL: Ms. Smith?

MR. LAMBETH: That's the end of my testimony. Thank you.

MS. SMITH: I just have a quick question.

You've -- you -- I think you said you've been birding for like 30 years in this area. And so the time that you've been birding, there has been this existing WAPA

transmission line and the roads in that area?

MR. LAMBETH: That trans -- as I -- you're asking, that transmission line that exists, been there that time; yes, I think it has, yes. For a --

MS. SMITH: And, --

MR. LAMBETH: -- long time.

MS. SMITH: -- and so there are still birds that are there, despite the transmission line and the roads in the area?

MR. LAMBETH: Well, you know, I, I wouldn't -- yes, that -- that's true. And I don't know that putting up another transmission line's going to wipe out some species, but, you know, my concern is that, that when I look at it from a broad perspective, if we keep hitting, hit after hit after hit on our bird populations, on our native prairie and so on, and some day we turn around and we wake up and it's gone, you know, what happened.

MS. SMITH: Okay.

MR. LAMBETH: And --

MS. SMITH: Yeah.

MR. LAMBETH: -- I, I think we just need, not only in this hearing, but any other

hearing involving these kinds of issue, we need to keep in mind we have a natural heritage. If we don't start taking care of it and giving it a high priority, it might be a priority, albeit as high as, well, somebody's home or, or whatever, but anyway, I, I think we need --

MS. SMITH: All right.

MR. LAMBETH: -- to raise the priority.

MS. SMITH: Okay.

MR. LAMBETH: I really --

MS. SMITH: That's --

MR. LAMBETH: -- do.

MS. SMITH: -- all the questions I had, thank you.

MR. LAMBETH: Okay.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: There's a plant that you described, was it called saltwort?

MR. LAMBETH: Saltwort, yes.

MR. SAGSVEEN: And is that found in other parts of North Dakota, to the best your --

MR. LAMBETH: It's a, it's a real saline, saline indicator. Salt indicator.

MR. SAGSVEEN: So wherever there's saline, --

MR. LAMBETH: Salty wetlands.

MR. SAGSVEEN: -- saline soil, you might --

MR. LAMBETH: Yeah.

MR. SAGSVEEN: -- find that?

MR. LAMBETH: If you drive around, you'll see it in lots of places in North Dakota. You, you might see it in a ditch somewhere in, in, in the late summer and the fall, it turns this rather bright red color. It's -- only grows up about 3 or 4 inches.

MR. SAGSVEEN: Is -- the saline tall grass prairie is -- if there's salinity in the soil, will, will it produce a type of grass that might be found in other, in other areas or is that grass kind of unique to that area?

MR. LAMBETH: I -- I'm getting out of my area of expertise when we talk about, about grass mixtures.

MR. SAGSVEEN: Well, --

MR. LAMBETH: It doesn't -- most of that grassland doesn't have, for example, big

blue stem or Indiangrass, which is what the Red River Valley mostly had before settlement.

I think it has a lot of what's called western wheatgrass. I've been told by biologists, it's, it's -- has to be grasses that withstand saline. Grow in a fairly salty, somewhat alkaline soil.

But, you know, all of the alkali plants, the real characteristic plant is almost no plants.

Most of the, most of the land out there is supporting a really good grass cover and so it's valuable grazing land.

MR. SAGSVEEN: No further questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions.

MR. WAHL: Questions from the Commission?

Commissioner Kalk.

MR. KALK: Just one quick question. Thank you for your testimony, sir.

Did you submit comments during the NEPA review?

MR. LAMBETH: No, I did not.

MR. KALK: Is -- was that because you didn't know about it or you just chose not to?

MR. LAMBETH: You know, I've been thinking about this and thinking. I'll be honest with you, I should have been on the ball on this before now.

I remember that there was an early meeting in Grand Forks and the Kadrmas, Lee, whatever, re -- representatives were there, I, I remember the person I'd talked to, and I said: whatever you're doing, you should avoid the, you should avoid the, the alkali flats.

And -- because we were looking at the maps and so on.

And -- so that was not really a formal input of -- in terms of written comments and so on.

MR. KALK: Okay, thank you.

MR. LAMBETH: So my regret, I have not -- I should have done some of this already.

MR. WAHL: Further questions from the Commission?

MR. CRAMER: You know, I, I -- just thank you very much.

This -- if I could, your Honor.

I mean, one of the things at, at the Northwood hearing I'd asked Genevieve to do was -- well, I asked the company to, and you heard the testimony earlier, is clarify for us why this, why this can't be avoided.

Why -- how -- why can't we go around to the south, because -- not because there's any criteria in the law that protects it, but, rather, because there's a heritage that maybe is worth protecting, if there's another way. If there's any other way.

And, and I'm -- I have to admit, or, or perhaps confess, that I have a special soft spot for prairie myself.

But I -- you know, listening to all the testimony today, I -- I'm struggling, I have to be honest, I'm struggling.

So my question to you would be this: if, if we're going to -- if -- we've heard that the, that the preference would be in the southern corridor, the, the -- going back all the way to, you know, the -- when there were three broad corridors that were, were being looked at and, and it was narrowed down

to this northern one.

And I look at how the, the WAPA line, the existing line that diagonals right through, that, that the company's proposing, is there, is there anything within this area, taking advantage of that, at least the efficiency of, of what the company has chosen, and by efficiency, I mean, at the -- at least they're proposing not creating another entire corridor within this precious area, is there anything in your view, in looking -- knowing the area well, looking at what the, the, the, to use what has been referenced or credited to Commissioner Kalk, this hybrid opportunity, is there anything, any small tweak that, that would at least further minimize impact within what's been proposed?

And maybe you haven't looked at it that closely, I don't know.

MR. LAMBETH: Well, there -- there's two aspects to installing the transmission line. Of course, one is the line itself, which, be there for, what, 99 years, or whatever.

MR. CRAMER: Sure.

MR. LAMBETH: The, the other would be, I think the, just the mere business of, of installing it.

MR. CRAMER: Uh-huh.

MR. LAMBETH: These are -- when, when you look at that map, when you go from North Dakota 15, that's coming out, west out of Thompson, up to U.S. 2, there's two roads that cross that. That's a distance of 10 or 11 miles. There's just two roads that cross.

One is County Road 6, running west out of Merrifield. And the other one is County Road 4, which parallels U.S. 2, 1 mile to the south. There's no other roads.

Why is that.

Well, it's kind of interesting if you go back in the history, when the first -- when the settlers tried to negotiate Grand Forks County through that area, they had a difficult time.

That was very nasty, muddy soils to try to, I suppose, get horses and wagons and whatever else through.

Because that's a problem to cattle operators, they -- those intersections, which

are 2 and 3 miles from a road, they have to work, they have to work down section lines, running their cattle and they may have to use an ATV and walk in to check on them later on.

I, I think I digressed a little bit, let me get back to your point.

The -- I think everything needs to be done possible to mitigate damage, particularly to that Section 36 and some of the other areas, where, especially where there's native prairie.

Now, not all that's native prairie.

I -- I'm, I'm sure some settler a hundred years ago probably tried to farm some of it. And, and one time was enough, I suspect. Because it's not really farmable.

So I would -- I just -- hopefully they would do everything to mitigate it.

I would like -- if, if it's going to happen through there, I -- I'd like to walk with somebody on Section 36 in the northeast quarter and, and try to locate the poles and where they're going to run, that that doesn't hit some of those really nice areas in there.

MR. CRAMER: Uh-huh.

MR. LAMBETH: I'd be happy to do that, too.
MR. CRAMER: That's a task --
MR. LAMBETH: If it comes to that. I'd be happy --
MR. CRAMER: I understand.
MR. LAMBETH: But, but we don't have to do that.
MR. CRAMER: Okay. Well, I, I appreciate your, I appreciate your willingness to drive all the way out here and, and your patience with the day --
MR. LAMBETH: Well, --
MR. CRAMER: -- and, and your testimony and your --
MR. LAMBETH: On a personal note, I, I could have come to the Northwood meeting, it would have been a lot closer.
MR. CRAMER: Yeah. Well, that was pretty long, too.
MR. LAMBETH: I, I turned 70 years old on June the 16th and my family had other plans for me.
MR. CRAMER: Yeah, well, good for you.

Thank you.

MR. LAMBETH: Thank you.

MR. CRAMER: Thank you for what you do as well.

MR. LAMBETH: Thank you.

MR. WAHL: Not yet, Mr. Lambeth.

MR. CRAMER: Okay. You're not released.

MR. WAHL: Not, not yet.

I, I suspect there's nothing further to come, but we have to ask.

And, Ms. Smith?

MS. SMITH: I have nothing.

MR. WAHL: Nothing?

All right, thank you very much.

(Whereupon, the witness was excused.)

MR. WAHL: Next, please.

You know, I'm sorry. We do -- I, I know everybody's anxious, you've been here a long time, but I do need to take about a ten-minute recess, please, I have a court reporter who is probably the most important person in this room, so we'll be in recess for ten minutes.

COURT REPORTER: Thank you.

(Whereupon, a ten-minute recess was taken.)

MR. WAHL: All right. Let's be in order, please.

Next person, please?

Please state your name for the record?

MS. SCHULTE: Teri Schulte.

MR. WAHL: Spell your last name, please?

MS. SCHULTE: S-c-h-u-l-t-e.

MR. WAHL: And I should ask you to spell your first name, also.

MS. SCHULTE: T-e-r-i.

MR. WAHL: Good thing I did.

Ms. Schulte, what is your residence address?

MS. SCHULTE: 2849 23rd Street Southwest; Center, North Dakota.

MR. WAHL: Is that also your post office address?

MS. SCHULTE: Yes, sir.

MR. WAHL: Ms. Schulte, are you here on -- or are you speaking for anyone, any

group or organization other than yourself?

MS. SCHULTE: Myself and my mother.

MR. WAHL: All right. Ms. Schulte, as you heard me advise previous witnesses, your testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the oath.

Perjury is a false statement of material fact which you do not believe to be true.

In North Dakota, perjury's a class C felony, punishable by a fine up to $5,000, imprisonment for a period of up to five years or both.

Will you raise your right hand, please?

Being advised regarding se -- se -- regarding perjury, Ms. Schulte, do you swear that the testimony which you're about to give in this matter shall be the truth, the whole truth and nothing but the truth?

MS. SCHULTE: Yes, sir.

T E R I S C H U L T E,

being first duly sworn, testified on her oath

as follows:

MR. WAHL: You may proceed.

MS. SCHULTE: I have a concern and I -- the one question you asked was who I was representing. It's me, myself -- I mean, me, my mom, and we also have a trust company that is handling my grandfather's farm. And there is one issue that I am going to bring up for that.

And my main issue is that the power line is going to come right past the front of my house. 500 and, what, 7 feet or 510 feet away.

That's where they're running the power line. And I'm not happy about it. My mom's not happy about it.

And I really don't think anybody here that had a really nice place, sitting with a beautiful view would be too happy to have some ugly transmission line getting run past 500 feet from their front door.

So I have an issue with that.

And they are going to be coming down through the pastures on my grandfather's

land that is being run by a trust company.

And we had them come out and stake where they're going to be putting the poles so we'd have a -- an idea of where the line is actually going to be.

And we were assured that they're going to fix any damages to the -- any damages that happen, will be repaired. The land's going to be put back to its natural state.

It's not possible with native grass, with native land. Once you disturb it, it doesn't matter what you do to it, you are not ever going to put it back to its natural state. It's not possible to do it. You may get it close, but you will never put it back to the way it was to begin with.

So I do kind of have an issue with that.

And they're going to come out and they're going to plant the native species of plants or whatever.

I've seen a lot of replanting on other projects in other places at other times, and it always seems like you end up with a lot of noxious weeds coming up in those areas that

were disturbed. And I really don't like that idea either.

So those are, those are my main, my main concerns with this power line.

And someone did bring up earlier about digging. And when they're going to be doing the concrete bases for these towers, which was something that I never thought of. I also have a very shallow water table around me. And beings that we're only going to be 500 feet from my house and my well, I am a little concerned about what kind of damage they can possibly due to the well.

I also know that there -- well, I talked to the NRCS people, and I was informed that there is an endangered species of bird. And I can't tell you what the name of the bird is. But in my area, right around where I live, there is an endangered species of bird. So they figured that I'd never be able to get wind towers put up there, which is fine with me, because they're about ugly, too.

But if you can't get a wind tower put up, oh, I'm pretty sure you shouldn't be able to put a power line through there either

if it's going to disturb those birds, so --

And they also have a certain amount of money that they're going to pay for cropland and a certain amount of money that they're going to pay for pastureland. And that's been determined according to the land values in the county where you're located at.

And that's all fine, except what if we want to turn around and take that pasture and break it up in five years and make a crop, you know, field out of it.

Not that that's going to happen, but what if it was going to happen.

Suddenly your pasture turns into cropland and suddenly the value is a whole lot different. You see, maybe they should address that possibility.

That's my feelings on it. That's all I have to say. I appreciate everyone giving me the time to say it.

MR. WAHL: Ms. Smith?

MS. SMITH: I don't have any questions.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: Do you have the

lo -- loc -- do you -- could you describe the location of your property? I don't know if there's any map up that you could do that.

MS. SCHULTE: Southeast quarter of Section 29, 142-82.

MS. SMITH: I believe it's 12a.

MS. SCHULTE: It is.

MR. SAGSVEEN: Twe -- Section 29, you said?

MS. SCHULTE: Yes, --

MR. KALK: Uh-huh.

MS. SCHULTE: -- sir.

MR. SAGSVEEN: Okay.

MR. KALK: That must be that dot right there, uhm?

MR. CLARK: Kind of where I figured it was.

MR. SAGSVEEN: I don't have any additional questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions, thank you.

MR. WAHL: Questions from the Commission?

Commissioner Clark.

MR. CLARK: Teri, thank you for

being here and thanks for sitting through a long day and, and testifying.

MS. SCHULTE: Thank you.

MR. CLARK: I think that may have been my question, I hadn't marked it down, but it, it is that -- and there's a little yellow dot there. It's right on the edge of the corridor on the map that I'm looking at, it's 12a.

29. Do, do you have --

MR. WAHL: You have map 12a in, in, in fro -- in fro -- in front of you there. One of those maps.

MS. SCHULTE: Right here.

MR. WAHL: You got it, okay.

MS. SCHULTE: Yes.

MR. CLARK: And, again, I, I guess I'll ask the question I've asked some others here: with -- if you have some alternatives, something like that, that you think would, would help mitigate the, the impact that you're talking about?

Understanding that you're, you're in a little bit of a pickle here, because you're so close to the, the beginning of the

line, there's sort of limited opportunities to perhaps shift it, because that is one of the, you know, absolute defined points is the beginning and the end of the line, as well as the crossing of the river.

So there may be less flexibility in this area, but do you have any sort of suggestions that might be helpful --

MS. SCHULTE: Yes, sir.

MR. CLARK: -- to your partic -- particular circumstance?

MS. SCHULTE: And the one thing that I should probably mention is my mother has a house there as well. I mean, we have, we have a duplex, so we both have our own residences there.

They could've gone to the south a quarter mile, they could have gone a mile to the north and got on a -- an actual section line that is a, a road, a section line road and they could have followed that for at least 3 miles, if not 4.

They could have come up from the south to get that mile to the north across pasture that someone else wouldn't have

probably had a problem with them going across. And they wouldn't have had to go past any farmsteads to get there.

And the really great part of it is, when you're figuring out what they're paying by acreage, you get paid X amount for your cropland and you get paid X amount for your pasture, but when you're coming right across your front yard, they don't make any changes in what you get paid for that.

You don't get reimbursed for devaluing the land with the wonderful view that they've given you. And you know that the value of the property's going to go down big time. Just on view alone.

Not to mention if somebody was afraid of getting some kind of health issues from the power that's going through the line.

MR. CLARK: So you -- you've said you might think about putting it -- recommending it about a quarter mile south or was it a quarter mile north?

MS. SCHULTE: Quarter mile to the south.

MR. CLARK: Looks like, looks

like --

MS. SCHULTE: Actually, --

MR. CLARK: -- it's directly --

MS. SCHULTE: -- there is --

MR. CLARK: -- to the --

MS. SCHULTE: -- a transmission line down there. We got lucky enough to get the one 30 years ago, too.

MR. CLARK: That's the 250 kV. That's the DC line.

MS. SCHULTE: Yeah. They could have, they could have done something with it -- actually, it would be better if they'd go a mile to the north, but --

MR. CLARK: Okay.

MS. SCHULTE: Anywhere that isn't right in my face when I look out the window would be good.

I kind of wake up slow in the morning anyway and I have to have coffee and an ugly view just isn't going to help. It's just not.

MR. CLARK: Okay, thank you for your testimony.

MS. SCHULTE: Yes.

MR. WAHL: Commissioner Kalk.

MR. KALK: Thank you, Teri, for your testimony.

Just a quick question, just -- Tony, I think, may have already got the answer, I want to double-check.

So your preference would be to have it run north of you instead of south of you. So rather than have it parallel to the current line -- I mean, it kind of comes down to -- where you live, where you live at, it looks you can look at two lines to the south or one line to the north and one line to the south.

Given those two scenarios, I mean, is one -- which one of those would be preferable?

MS. SCHULTE: The one that I have to the south right now is not a problem. Way down there.

I'd rather have this one to the north.

MR. KALK: Okay. But you can see the south line from your house, too, right?

MS. SCHULTE: Aah, in a, in a couple of spots.

MR. KALK: Okay.

MS. SCHULTE: It's a half mile away.

MR. KALK: Okay.

All right, thank you very much.

MS. SCHULTE: Yes, sir.

MR. WAHL: Further questions from the Commission?

Commissioner Cramer.

MR. CRAMER: Thank you for your testimony, Teri.

The -- as I look at this, you're saying they've told you or they've staked out spots or routes specifically within about 507 feet of your home, so at the end of your --

MS. SCHULTE: Uh-huh.

MR. CRAMER: -- driveway.

You're on the very north edge of the corridor. If we were to approve this corridor as they present it today, there's probably another 490 feet south of there yet.

Just knowing that area as well as you obviously do, is there some wiggle room there or is there some other -- is there some reason why going further south within this

proposed corridor is a problem that, that you know of? I mean, other than still close to you, but --

MS. SCHULTE: I think that where you're going to run into problems with that is going to be when you get right to the east of me, because then you're running into farmland.

MR. CRAMER: Okay.

MS. SCHULTE: And they don't want to -- you know, they're going to, they're going to go with the cheapest route, which is across pasture, which -- that's fine.

If they'd gone to -- a, a mile to the north and hit that section line, they could have run all that way down the section line. They could have gone over to Highway 25 on that section line, they'd been going across pasture.

Or right on that section line, that nobody is farming on the section line. They could have followed that all the way over to Highway 25, jumped Highway 25 and taken it right down to Price and gone across the river at the same place where the other one goes across, or pretty close.

MR. CRAMER: Uh-huh, okay.

MS. SCHULTE: I just am unfortunate to have put a house right there and who thought they'd put a power line right in front of it.

MR. CRAMER: All right, I have nothing further, thank you, --

MS. SCHULTE: Yes, --

MR. CRAMER: -- again.

MS. SCHULTE: -- sir.

MR. WAHL: Ms. Smith?

MS. SMITH: I have nothing further.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: Nothing further.

MR. WAHL: Mr. Lein?

MR. LEIN: I, I would ask -- there's another house right on that 250 kV line just south of you. It's -- there's a, a crick or something running through there and it's right on the crick. Do you know, know whose house or the -- is there somebody in that house? I mean, --

MS. SCHULTE: Are you talking about the one right down almost on the transmission line to the south?

MR. KALK: Uh-huh.

MR. LEIN: Yeah, it's right --

MS. SCHULTE: That is an abandoned farmstead. That was actually my great-grandfather's homestead place.

MR. LEIN: So nobody lives in that house?

MS. SCHULTE: No, sir. The house doesn't exist anymore.

MR. LEIN: Okay. Thank you, no further questions.

MS. SCHULTE: Yes.

MR. WAHL: All right. Any further questions from the Commission?

Ms. Smith?

MR. CLARK: Do --

MS. SMITH: No, your Honor.

MR. CLARK: Can --

MR. WAHL: I'm sorry, --

MR. CLARK: I, --

MR. WAHL: -- Commissioner --

MR. CLARK: -- I --

MR. WAHL: -- Clark.

MR. CLARK: -- do have one.

In -- I assume you've talked with Minnkota or their agents on occasion?

MS. SCHULTE: I've tried, yes.

MR. CLARK: The -- had you offered that route and said: you know, look, there's nobody down there, it's an old, abandoned farmstead, could you put it closer to that, that existing DC line?

MS. SCHULTE: The people that we actually talked to was Dina at Kadrmas, Lee & Jackson.

MR. CLARK: Okay.

MS. SCHULTE: And I don't know, I haven't talked to her again since we had our meeting with the trust company and her, so I don't know if she has actually approached anybody from Minnkota with any --

MR. CLARK: Sure.

MS. SCHULTE: -- ideas --

MR. CLARK: Well, --

MS. SCHULTE: -- about it. I don't know.

MR. CLARK: -- the, the reason I ask is, when we look at the -- those list of things that the Commission is trying to mitigate, I mean, it's a possibility, and I don't know if this is the case or not, but all we see on this map is a yellow dot, which says

to us, well, there's somebody living there, there's a residence.

And, in this case, you're saying: aah, that's an old, abandoned farmstead down there.

MS. SCHULTE: Uh-huh.

MR. CLARK: And you're living in this other yellow dot.

MS. SCHULTE: Uh-huh.

MR. CLARK: I mean, maybe there's a chance that, that in looking at it, they were trying to avoid where they thought someone was, and instead, moved it a little closer to you where someone actually is and -- you know, --

MS. SCHULTE: They knew nobody was down there, but --

MR. CLARK: Okay.

MS. SCHULTE: -- that -- I, I don't know -- I'm sure they just wanted to take a straight shot and run with it. And I understand that, but --

MR. CLARK: Uh-huh.

MS. SCHULTE: I'd like to see them run it --

MR. CLARK: Right.

MS. SCHULTE: -- through their own house --

MR. CLARK: Although, --

MS. SCHULTE: -- with it, instead of mine.

MR. CLARK: Right.

MS. SCHULTE: So --

MR. CLARK: Although, I mean, residence is something that the Commission can take into consideration, it's, you know, more unique, so --

MS. SCHULTE: Uh-huh.

But they could be --

MR. CLARK: And cost shouldn't be the only consideration.

MS. SCHULTE: If they could go to the south, I mean, that would work, too. That's our land down there, by that other dot, so there shouldn't really be a -- I know that that's -- that would be more acceptable.

MR. CLARK: Okay.

MS. SCHULTE: Just getting it, you know, right out of our faces, more acceptable, whichever direction they got to do to do it.

MR. CLARK: Sure.

MS. SCHULTE: So --
MR. CLARK: Okay, thank you.
MS. SCHULTE: Yes.
MR. WAHL: Further questions from the Commission?
MR. CRAMER: None.
MR. WAHL: Ms. Smith?
MS. SMITH: No, your Honor.
MR. WAHL: Mr. Sagsveen?
MR. SAGSVEEN: No, your Honor.
MR. WAHL: Mr. Lein?
MR. LEIN: I was just -- wonder what was wrong with paralleling that 250, that DC line all the way across? And I guess that's a question for Minnkota. No further --
MR. WAHL: May I --
MR. LEIN: -- no questions.
MR. WAHL: -- assume that that wasn't a question, Mr. Lein, --
MR. LEIN: No questions.
MR. WAHL: -- and we can excuse Ms. Schulte?
MR. LEIN: Yep.
MR. WAHL: Thank you very much, Ms. Schulte.

MS. SCHULTE: Thank you.

(Whereupon, the witness was excused.)

MR. WAHL: Next, please.

MR. NUDD: Good evening.

MR. WAHL: Good -- it is, isn't it. I'm sorry, I really am.

Please state your name for the record, sir.

MR. NUDD: Tom Nudd.

MR. WAHL: Spell your last name, please?

MR. NUDD: N-u-d-d.

You should know all the four-letter words by now.

MR. WAHL: Please state your residence address.

MR. NUDD: 1759 36th Avenue Northeast; Harvey, North Dakota.

MR. WAHL: Is that also your post office address?

MR. NUDD: Yes.

MR. WAHL: And, Mr. Nudd, do you, do you speak for anyone other than yourself, any organization or group?

MR. NUDD: No.

MR. WAHL: Mr. Nudd, as you heard me advise previous witnesses, your testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the oath.

Perjury is a false statement of material fact which you do not believe to be true.

In North Dakota, perjury is a class C felony, punishable by a fine up to $5,000, imprisonment for a period of up to five years or both.

Will you raise your right hand, please?

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

MR. NUDD: Yes, sir.

T O M N U D D,

being first duly sworn, testified on his oath as follows:

MR. WAHL: Please, you may proceed.

MR. NUDD: Thank you for hearing me, members of the Public Service Commission.

We have been contacted to run a line across our property. And from the beginning, we made it clear to the right of way agents that we felt that if they decided to run a line there, it should be adjacent to the section right of way and that any easement that be granted have no piggybacking on it.

And when we did finally receive a copy of the option to the easement, they have the line out in our field and they have a piggyback agreement in there where basically they own the easement and they can do as they please with the easement, give it to communications or anybody afterwards.

And we're asking the Public Service Commission to make it part of their ruling, when they grant this, that they put the centerline of the towers at the edge of the section right of way. Or 33 feet, plus a little bit for foundations, from the cen -- center of the section line.

And that all piggyback agreements

be stricken from the easements.

In other words, grant them permission to build this tow -- system, but they have no rights beyond that.

MR. WAHL: Ms. Smith?

MS. SMITH: I'm just wondering if you could identify where your property is for us?

MR. NUDD: 148-72, Section 34. It's the west half of the southwest quarter.

MS. SMITH: And I think I'll need a little bit more, honestly, of -- can you give me a, a town or --

MR. NUDD: Rusland.

MR. CLARK: Rusland.

MS. SMITH: Rusland.

MR. CLARK: Is it right in between the two Weckerly --

MR. NUDD: Kind of, sort of.

MR. CLARK: -- their property basically.

Okay.

MS. SMITH: I think if you look at what's -- there's an Exhibit in that book and it's 12d and it's a map.

Okay, 12d, and it'll show you at the top, I think, your property might be on that. And maybe you could point it out to us again.

MR. NUDD: No, I don't think it's 12b.

MS. SMITH: D. I'm sorry, D.

MR. NUDD: Yes.

MS. SMITH: Okay. And you said which section again? I'm sorry.

MR. NUDD: 34.

MS. SMITH: 34.

Okay.

MR. NUDD: 148-72.

MS. SMITH: Okay. Okay.

Okay, I've got it, thank you.

I have no further questions.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I have no questions.

MR. WAHL: Mr. Lein?

MR. LEIN: It appears that the corridor is on the, on the section line you're talking about, right?

MR. NUDD: The option for the easement that was sent to us puts the

centerline of the towers out in the field, instead of on the edge of the easement to the so -- the highway right of way, as you would call it, or the section line easement as prescribed by the Century Code.

MR. LEIN: Okay. Thanks, no further questions.

MR. WAHL: Questions by the Comm -- Commissioner Cramer.

MR. CRAMER: Thank you for your testimony.

There's a, a home to the south -- or a residence that appears from -- to the southeast of you, probably -- well, on the south side of 12th Street Northeast there. Are you familiar with that residence?

MR. NUDD: Yes, I am.

MR. CRAMER: If the line was to go where you're suggesting, how close would it run to that residence?

MR. NUDD: 75 feet closer than it is now.

MR. CRAMER: Do you know if that would happen to put it inside of 500 feet?

MR. NUDD: It would be much greater

than 500 feet.

MR. CRAMER: Okay. I have nothing further, thank you.

MR. WAHL: Any --

Commissioner Clark.

MR. CLARK: Thanks. And thanks for hanging in there.

MR. NUDD: I hope you understand, --

MR. CLARK: I --

MR. NUDD: -- I'm not only asking for myself, --

MR. CLARK: Yeah.

MR. NUDD: -- because a lot of people feel the same way. These towers -- we don't care how wide the easement is.

MR. CLARK: Uh-huh.

MR. NUDD: It's the centerline of the towers belongs on the edge so that you minimize the hazard to equipment, to the towers. Instead of farming around them, you come down the field, you just jog around them and keep going.

You move them out into the field -- this option says that they can put those towers

as much as 425 feet into my land. Other people are 1300 feet into their fields.

MR. CLARK: Sure.

MR. NUDD: If you move them to the edge of the section line where the easement for the roads are, you just jog around them. You don't overlap with chemicals, with seed, fertilizer.

MR. CLARK: Okay. Thanks.

MR. NUDD: The first round are out of the way.

MR. CLARK: Yeah, thank you.

And -- just to, to be sure. The, the edge of the section line would be within the corridor as well, correct, so --

MR. NUDD: I beg your --

MR. CLARK: They --

MR. NUDD: -- pardon?

MR. CLARK: Well, the, the edge of the, the section line, where you're suggesting that the eventual route would be, is within the corridor, so --

MR. NUDD: Yes.

MR. CLARK: I mean, we may have an opportunity at a later time to deal with that

if, if need be at a -- in the actual routing phase.

I did have one other question.

MR. NUDD: I know it can be done, because you mentioned the line -- Minnkota mentioned the transmission line that's being built in Minnesota right now.

MR. CLARK: Uh-huh.

MR. NUDD: I stopped and asked the people there. That one is run like that, they don't go out in the middle of the fields.

They run right next to the interstate in places.

MR. CLARK: Oh, yeah. They sure do. I noticed it a few weeks ago.

MR. NUDD: They're even putting their foundations half on the right of ways in lots of places.

MR. CLARK: Oh, I know what I was going to comment -- it was more a comment than, than a question.

You brought up some of the, the contract terms in, in the, the easements, and, and so on and so forth. And believe me, if I was a landowner, I'd be asking those exact same

questions.

So I have an understanding what, what you're talking about.

I just want to make sure that folks understand from a, from a Commission standpoint, the, the law is pretty clear, that that's not an area we can deal with, in order -- that those sort of negotiations between landowners and utility companies are -- they may be a proper venue for some other body, court, but they're outside of our purview.

So while I'm sympathetic to what you're saying, from a Commission standpoint, it's probably going to be hard for us to address.

MR. NUDD: You, you mean --

MR. CLARK: That part.

MR. NUDD: -- you have no, no jurisdiction over piggybacking?

MR. CLARK: Well, over the, the terms and conditions between a landowner and the utility company.

We may have ability with regard to siting corridors and lines and things like that, but when it comes to the contract

negotiations, that's outside of our control.

MR. NUDD: Well, I've lived in oth -- or I have property in other parts of the country and I've run up against this piggybacking.

And, and it's a -- it's not fair, it's not nice, because once they have -- once they get their easement, if that's in there, you don't have anymore control over it either.

MR. CLARK: No, I --

MR. NUDD: So now is your chance to put a control, it's for a power line and a power line only.

MR. WAHL: Ms. Smith?

MS. SMITH: I don't have anything else.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No additional questions.

MR. WAHL: Mr. Lein?

MR. LEIN: Nothing further.

MR. WAHL: Thank you very much, Mr. --

MR. NUDD: Thank you.

MR. WAHL: -- Nudd.

(Whereupon, the witness was excused.)

MR. WAHL: Next, please?

Please state your name for the record?

MR. KRUSH: Lowayne Krush.

MR. WAHL: Spell your last name, please?

MR. KRUSH: K-r-u-s-h.

MR. WAHL: And it was Duane or Wayne?

MR. KRUSH: Lowayne. L-o-w-a-y-n-e.

MR. WAHL: Mr. Krush, what is your residence address?

MR. KRUSH: 602 North Second Street; Wilton.

MR. WAHL: Is that also your post office address?

MR. KRUSH: P. O. Box 444.

MR. WAHL: Mr. Krush, are you speaking for anyone other than yourself and your family?

MR. KRUSH: No. Myself.

MR. WAHL: Mr. Krush, as you heard

me advise previous witnesses, your testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the oath.

Perjury is a false statement of material fact which you do not believe to be true.

In North Dakota, perjury's a class C felony, punishable by a fine up to $5,000, imprisonment for a period of up to five years or both.

Will you raise your right hand, please?

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

MR. KRUSH: I do.

L O W A Y N E K R U S H,

being first duly sworn, testified on his oath as follows:

MR. WAHL: You may proceed.

MR. KRUSH: Okay. That's 12a.

I believe it's Exhibit 12a.

Where the power line crosses Highway 83 and goes north. And turns to go east again. I was wondering if that could be -- could go north a half a mile further? And, and then east, over toward where it goes north again.

My buildings and stuff are probably 200 feet, 300 feet maximum from the quarter line where they're coming across.

If you go a half a mile north and come straight across there, you would be -- instead of on the south side of, of the quarters, you'd be on the north side of the quarters.

On the north side of the quarters coming across.

Actually, if, if -- I just put up a couple grain bins, I was going to put them up on the north side there, but I, I moved them over to the east side.

If I'd put them up on the north side, why, actually, they'd been right, right on the quarter line.

And it wouldn't -- in knowing the landowners and stuff, it wouldn't change any of the landowners at all, it'd be the same landowners, except being on the south side of the quarter, it'd be on the north side of the quarter.

MR. WAHL: Ms. Smith?

MS. SMITH: I don't have any questions.

MR. WAHL: Excuse me. Mr. Sagsveen?

MR. SAGSVEEN: Are -- sir, are you talking about making the, the corridor line go to the northern portion of Section 18?

And then jogging east?

Or am I looking at the wrong spot?

MR. KRUSH: Yeah, I believe that's 18. Yeah, yeah, I believe that's 18 there, yeah.

MR. SAGSVEEN: And then -- so it would kind of parallel 14th Street Southwe -- Southwest when you go west -- or east there?

MR. KRUSH: Yep.

And those are all, except for 2 miles in there, those are -- that's all section

lines all the way through there.

MR. SAGSVEEN: Do you know, in Section 10, whether or not that's an occupied home, that yellow dot there north of the 14 and the 14th Street Southwest?

MR. KRUSH: Yep.

MR. SAGSVEEN: That is occupied?

MR. KRUSH: Yep.

MR. SAGSVEEN: And then in Section 11, is that also occupied?

MR. KRUSH: Yep. Myron and Brent Basaraba.

But, see, they're way off, they're off -- Myron's off -- it shows like it's pretty close there, but he's off -- oh, he's off 1500 feet or more probably there.

MR. SAGSVEEN: I don't have any further --

MR. KRUSH: Oh, the other one, other one is, yeah, Josh Basaraba, would be the other one there.

MR. SAGSVEEN: I don't have any additional questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions.

MR. WAHL: Questions from the --
Commissioner Cramer.
MR. CRAMER: Just -- thank you. But whi -- which is -- which spot is -- are your buildings? In which, which, which section is it exactly?
MR. KRUSH: It'd be on 15, the way it looks.
MR. CRAMER: Okay, okay.
MR. KRUSH: Just -- it's, it's right there, the buildings are right there.
But I -- there's -- you know, I don't have a house there or anything, so that's why there's no dot there, but --
MR. CRAMER: Sure.
MR. KRUSH: -- there're buildings and it's right in my backyard here.
MR. CRAMER: All right, I have nothing further, thank you.
MR. WAHL: Any further questions from the Commission?
MR. KALK: Just a -- I, I appreciate your candid testimony. You came up and said what your concern was, gave us a solution, that was great.

I mean, the, --

MR. KRUSH: Yeah, that's --

MR. KALK: -- the only thing I can see is --

MR. KRUSH: Well, actually, they could go another 15 miles north of me, --

MR. KALK: I hear you.

MR. KRUSH: -- if you want my real opinion, instead of going east.

MR. KALK: But -- would you agree, would you agree with your neighbor to the north, wouldn't want them to get too close to his house, too, so it would --

MR. KRUSH: No, he won't -- no, it won't be close to his house.

MR. KALK: Okay.

MR. KRUSH: No, huh-uh, not on that section line.

MR. KALK: So basically --

MR. KRUSH: Now the, the other way -- I mean, you know, somebody could come out and look at it, but, I mean, they are 2 or 300 feet from my place and there they're probably 1500, minimum of 1500 feet away from theirs.

MR. KALK: Okay. All right, perfect. Thank you very much.

MR. KRUSH: Okay.

MR. WAHL: Further questions from the Commission?

Ms. Smith, anything further?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No, your Honor.

MR. WAHL: Thank you very much, --

MR. KRUSH: Thank you.

MR. WAHL: -- Mr. Krush.

(Whereupon, the witness was excused.)

MR. WAHL: Well, it's been a long day, Mr. Weckerly.

MR. NORMAN WECKERLY: It's been a long day.

MR. WAHL: And you're getting close.

MR. NORMAN WECKERLY: I see.

MR. WAHL: I have your last name, obviously. Tell me again, though, your first

name.

MR. NORMAN WECKERLY: My first name is Norman.

MR. WAHL: All right. Mr. Weckerly, what is your residence address?

MR. NORMAN WECKERLY: I'm a re -- residence at 231 Boody Avenue, in Hurdsfield, North Dakota.

MR. WAHL: Is that also your post office address?

MR. NORMAN WECKERLY: No. My post office address is Post Office Box 126.

MR. WAHL: And I understand that you're here speaking for yourself and not on behalf of --

MR. NORMAN WECKERLY: I'm here for myself and my family.

MR. WAHL: Very good.

Mr. Weckerly, as, as you well know by now, your testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the oath.

Perjury is a false statement of material fact, which you do not believe to be

true.

In North Dakota, perjury's a class C felony, punishable by a fine up to $5,000, imprisonment for a period of up to five years or both.

Will you raise your right hand, please?

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

MR. NORMAN WECKERLY: I do.

N O R M A N W E C K E R L Y,

being first duly sworn, testified on his oath as follows:

MR. WAHL: You, you may proceed, sir.

MR. NORMAN WECKERLY: Some of my testimony may parallel a little bit my son, who was on earlier.

But you asked everybody else what their education was, so I thought, really, I

should tell you that I'm just a high school graduate. I spent a couple years in the Army, in the Korean War, which kind of tells you what my age is. And I did go to Baylor University, in Waco, for a couple quarters, waiting for my wife to get her degree. So she's the educated one in the family and, and I guess I'm the other half.

I farmed and ranched sheep and cattle until 1968, in the Hurdsfield community. And all of my, all of my work has been, my work life has been Hurdsfield or extended from that.

I farmed until '68. And in 1968, I bought the local elevator and was in the grain business and continued to farm until 1985. And then I rented the, leased the elevator out, but then we took it back and my son has operated it since.

During that time, the community also needed a store, as all little communities have, so I built and operated the country store, to date we do.

I sold and serviced property and casualty and MPCI insurance, until I was legislated out of it, just a couple years ago.

Some of my experiences with the value or not value of power lines, was that I owned some irrigated land in Arizona in the late '70s. It was all flood irrigated at the time. And I, I sold it prior to the time that it was switched over to the, the sprinkler irrigation.

But when sprinkler irrigation came into this land north of Wilcox, Arizona, there was also power lines. And the farmers that were there at the time had to pay to get the power lines off so they could sprinkle irrigate their, their farms.

And I, I just bring that out to, to explain how technology does not stop.

It started whenever, it started, you know, after the ice age. And it's still going yet.

I purchased and own land close enough to Bismarck that could have been development land, but turned out that it had less value because it had Bureau of Reclamation towers on it. I didn't think about it when I bought it. But when I went to sell it, I found out that it did depreciate the value of the

property.

I've been a member of several ag, ag, agricultural organizations in my life. Farm Bureau Greater North Dakota Association, U.S. Durum Growers Association, which I was the president for five years, from '77 to '82.

I was appointed to the North Dakota Wheat Commission in 1974 by the then governor, Art Link. I was the chairman of that organization from 1975 to 1977.

Also, was a member of the U.S. Wheat Associates, appointed to the Federal Grain Inspection Service Advisory Board from -- with John Block, Secretary of Agriculture, '81 to '86.

Appointed a public member of the Minneapolis Grain Exchange by the Grain Exchange, in 1978, and served until 1982.

All these experiences opened my mind to the complexity and advancements in agriculture throughout the world.

I made several trips, foreign trips, promoting wheat at the time. And it became so apparent that with the regulations in the Soviet Union -- and I was at the -- in the

Soviet Union before the wall fell, how we could regulate ourselves just right out of the society that we want here.

In my farming life in Hurdsfield, I built a farm up to 60 quarter sections, which now includes my son and grandsons. This is primarily owned. Supervise 5 to 15 employees, in addition to our own family.

So I, I, I did have a working background. I, I, I thought about my relations with the PSC when I was on the Wheat Commission, and that was back in the Bruce Hagen days. So you can, you can tell how long ago that was. Maybe nobody else remembers Bruce Hagen, but he was there an awful long time.

When it comes to the, the power line today, I never was contacted personally by a representative, representative of Minne -- of Minnkota or Kadrmas, Lee & Jackson.

I was called by an -- by KLJ and asking for permission to survey on the land.

I refused them the permission to do it, but that didn't seem to bother them, because three times I asked people to leave the

land and each time they came back, of course.

Now the third time, I don't know, I wasn't there after that, but for three times they didn't really pay much attention to their lack of permission to come on the land to survey it.

It's so different than a -- I signed an easement for a water line two years ago, an underground water line by the -- from the Bureau. And I say this because I'm, I'm not anti-development, I'm not anti-improvement of, of North Dakota, but there, they personally contacted me, everything was smooth and clear. And in a month and a half, I signed an easement for them to do it.

So I, I just bring that out, that I, I think sometimes people think that anybody that testifies or resists something is some kind of a troublemaker.

I'm not a typical landlord, I don't think. I think it's awfully easy for landlords to sign easements that don't affect them. You know, they get some money out of it, but the tenant out there farming has got to pay the price. And he does pay the price.

But I've worked this farm, this land all my life. I realized the cost of the next generation or a tenant who will farm this land.

I'm trying to look at the big picture today.

You know, you, you might -- you've asked most people: where do you want the line to go.

Well, to me, first you look at the big picture. We need the line.

According to Minnkota, it's all peaches and ice cream, everything is just perfect.

Well, I think that we know better out there.

All my, all my life, I've im -- I've, I've worked to improve the productivity of the land, whether it's, whether it's, whether it's what people call poor land or bad land.

I heard the testimony from the people in Grand Forks about how this is, this is poor land, this is bad land.

No land is bad land. It just needs

to be managed differently.

If it's salty and it's pasture, you manage it for that. It's not bad land and it's not poor land, it just needs to be managed differently.

And the technology has affected how we have managed our land so much during my lifetime.

With pasture and wildlife enhance -- wildlife enhancement, it leas -- it requires the least management. Water resources, dugouts, dams. You know, I, I went through all that, planting trees.

But in order, in order to improve total productivity of land, it must be tilled.

And it has been very popular in western North Dakota, of course, the last few years, to use no-till. Now, we're running into a problem with no-till with such high moisture levels.

No-till works beautifully with dra -- when you're dry. When you have a dry year as a farmer, you do everything you can to save moisture. When it's a wet year, you have to do everything you can to get rid of

moisture.

And now with all this moisture in western North Dakota, no-till is not working, believe me.

The tools, the tools that have been developed for seed placement and fertilizer, have really contributed to enhanced production of land.

But with all of this technology and, and better tools, these obstructions in the field really affect us the most.

And, of course, this is where, on our farm, as Terry brought out, we've buried all the rock piles, we've rolled up fences, we have removed all the utility poles that we can.

And I, and I have to compliment the Northern Plains Cooperative for having such a good program to share the costs of removing the poles from, from farmers' fields.

And, and all of this is done to have an in -- a minimum interference in crop operations.

Accidents cost money. And if anybody can say that they've never had accidents with power comp -- with power poles,

I would seriously question their integrity.

Because I didn't think that I could hit them either, but it hit -- it's happened to me, too.

And it, and it has increased with longer hours, with larger equipment, with, with equipment that you go faster.

Same thing relates to so -- a lot of tree rows that were planted in our area, where they were too close together.

I don't, I don't have anything against trees, but they really were bad when they were -- when every 20 rods and when you got bigger equipment, then it just -- and, and now with our tillage operations, we, we don't need the trees to control the erosion.

And, of course, Terry had mentioned irrigation.

Well, I, I guess I did some, I did some, some investigation of irrigation about 20 years ago on using surface water.

Any of you that are familiar with the Hurdsfield area, know that, that we are st -- we are still the Prairie Pothole Region. I no -- I noticed, according to the maps, the

Prairie Pothole Region was south of us.

But with the Highway 200 being closed on the west side of Hurdsfield and the east side of Hurdsfield and the south side going to Tuttle, you know we're in the Prairie Pothole Region and we've got a lot of surface water.

So I don't even discount where -- what the land that I'm representing couldn't sometime be irrigated with surface water.

Now I'm not going to do it, but I've got two grandsons that are awful ambitious that might.

And then, of course, the, the, the tiling is something that's really coming in. And a lot of that is being pushed because of the, the salt levels. The higher the water table, the higher the salt levels.

And, of course, we've heard of tiling in Iowa and southern Minnesota and everyplace else, but -- well, it didn't pay to tile $300 an acre land, but it does pay to tile $2500 an acre land.

You know, it's all relative to va -- to values and the costs. And the cost of

tiling is less with the tiling machines today and every farmer's got a big tractor. And, and, and you -- I, I understand they're, they're even building a plant or a warehouse between Fargo and, and Grand Forks to distribute this, this drain tile.

So all of these things have changed in my lifetime again.

And the technology of equipment. Terry had mentioned auto steer. And I, I pulled my grandson out of the middle of a slough three years ago when he first came home because he had it in auto steer. Auto steer doesn't detect sloughs either.

I, I can foresee in my lifetime, I hope I live long enough, I can foresee that we could have remote-controlled power units in the field.

I think we could have two or three units working in a field with one person controlling them.

And I know that the power company says that these electronic fields will not affect that.

But, you know, I still drive under

power lines and the radio crackles and whatever. And I know they're supposed to be things that can suppress that, but it doesn't always work.

You know, there's always things that don't work.

The spray planes, of course, that's another thing. I mean, they say, why you could -- a spray plane'll, you know, parallel, well, that's right, you know, you could. I mean, anything can be worked around.

But I really urge the PSC to support any plans that avoid cropland for siting the poles.

I agree with, with Tom Nudd. Why the poles can't be put at the -- on the -- right at the section line, at the end of the field, is beyond what I can see.

I'm, I'm, I'm looking at a couple sections here and the land that I'm representing is, is, is just over the line in the Sheridan County. Section 11 and 12 of 147-74.

And they have sited -- and like I said, they've never talked to me.

They, they, they gave this to my grandson, but my grandson has nothing to do with this land.

They've sited at 1300 feet in from the section line.

And a couple of these people here mentioned they had sited it down the half-mile line. I, I, I can't, for the life of me, understand how they can be nonintrusive to cropland.

And I see no advantage to them. There's no buildings up there.

There's not a building between -- there's not a resident along that road between north of Goodrich, the Goodrich road and Highway 3.

There's not a residence.

I, I can't -- I jus -- I, I see no, I see no rea -- no reality to it.

I mean, you know, there, there was no consultation about what will be good for you.

You know, what would be good for you.

I, I just never, I just never,

never gone through something like this.

The lack, you know, just a total lack of, of, of responsibility.

You know, I, I have to bring a little history. And a few years ago, my son-in-law gave me the -- some, some CDs on Guns, Germs and Steel, by Jared Diamond.

If any of you are -- wonder about the, the, the, the progress of mankind, you should either read the book or get, or get the CDs.

You know, the, the progress of man was enab -- has been enabled, he says, according to Jared Diamond, by tilling the soi -- tilling the soil.

The hunting and gathering society would not support but a small percentage of our global population.

The rise of agriculture after the ice age was the first step to domestic farming.

And, consequently, management of land resources.

And my primary reason for being here is to try to influence you to preserve the opportunity for the next generations to adapt

to the change that will come in agriculture, it will come.

It's not if, it will come. And if we got a hundred years of power poles there, 1300 feet off the section line, it will affect our operation of that land.

And I thank you for your attention.

MR. WAHL: Ms. Smith?

MS. SMITH: I don't have any questions.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No questions, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions.

MR. WAHL: Questions from the Commission?

MR. CLARK: No --

MR. WAHL: Commission --

MR. CLARK: -- questions, but I would agree, Guns, Germs and Steel was a great book. In fact, I loaned it to Commissioner Kalk, and just to show you how trustworthy he is, I even got it back.

MR. NORMAN WECKERLY: That is good.

MR. WAHL: Commissioner Kalk?

MR. KALK: Thank you for your testimony, Mr. Weckerly.

I just had a question for you on the -- and, and Tony's right, we read that book, it's an excellent book and -- when you said Korea, that's almost 60 years ago -- or it is 60 years ago, isn't it.

I'm going to the Legion convention here in a little bit and then we're ta -- that's one of the things we're talking about is the Korean service, but --

You talked a lot about technology. Do you think that there'll be a day when, with the, with the technology that drives the, the tractors, if you will, that you'll be able to program in the sloughs and the power poles and those kind of things, so, so you can take some of that human factor out of that?

MR. NORMAN WECKERLY: Well, I, I hope you will be able to.

You know, I, I couldn't believe, oh, ten, ten years ago, I suppose, our farm -- when Chad came home from, from college, he, he started working harder on the GPS and, and,

which is Global Positioning, which I, I, I couldn't believe it could work, but I, I realized that, I, I guess we have to spend some money on R&D, research and development.

And then I, then I began to realize, you know, this isn't any good for this year or next year, we have to get a database.

Now I've even adapted some of this new, you know, language. We got to get the database, we got to get three or four, five years' history. This is really necessary that you farm the same land and continue to farm the same land and have the continuity.

And I'm very fortunate that I was able to, to buy as much land as we have, that we can have the continuity.

But now they've moved into variable rate fertilizer and seed applications. I never dreamed that could work. That this side of the planter can put on more fertilizer and seed than this side of the planter.

And it, as you go over the hill, it cuts back the seed and the fertilizer. When you hit a salty spot, it hit -- it cuts it back.

You know, you, you, you seed and fertilize the land that comes off of your GPS from the combines the fall before, where the best crop was, that's where you put the most fertilizer and seed.

And where there wasn't a very good crop, because of the soil conditions, I mean, that's another, that's another step you -- various something -- oh, you run over the land that -- you -- types of all the land.

So you variable rate, which cuts your costs down with, with seed at $50 an acre and fertilize at 50 or $70 an acre. You want -- you have to minimize those costs and maximize your yields.

Now, to me, this is just the beginning of all of this.

I don't know what it's going to be in 50 years. I can, I, I can see this happening.

But, but either way, when you, when you, when you have a choice, why put the poles 1300 feet out in the field, why not put them on a section line.

I mean, my first choice, I agree

with Terry, should be along 200.

And I can't understand why anybody would want to build a line up there where the roads are terrible. Some of them aren't even graveled.

And, and, you know, we had to go around by Goodrich and come back to this land here. We couldn't drive north of Hurdsfield to this land.

And we may not be able to harvest the crop off it and haul it there. We may have to haul it back to the Goodrich road, go south of 200 and around.

So we -- we're, we're -- we have a real precarious situation out there with rural traffic and, and, and, and these are all getting to be minimum maintenance roads.

You know, the best road that we have in the -- or one of the best rural roads we have is where there was a washout. It's not 12th Street, it's the next one. Well, I think it is 12th Street. It was washed out over by the Chaseley road, so there's no traffic on it. Now they fixed it. That's a pretty good road, because there's no traffic.

But the other two south of it, between there and Hurdsfield, it just -- the truck traffic just wrecked them, sneaking across there when 200 was closed east of Hurdsfield.

MR. KALK: Thank you.

MR. NORMAN WECKERLY: So the -- our, our rural roads and, and -- well, you've, you've all been exposed to the Williston situation with the oil. I can't understand what they're going to do with oil unless they just lay pipelines.

At least the, at least the oil, they could pump the oil to the pipeline and get, get to the highway. But, but we can't do that.

And I don't think if you build that high line there, that you're going to be able to do that eith -- do that either.

200 is the place that that high line needs to be, that . . .

MR. WAHL: Further questions?

Commissioner Cramer.

MR. CRAMER: Well, I'm compelled to ask two questions, and you don't have to answer

either one of them, but I'm still compelled to ask them, and that is: do you preface every negotiation and discussion with: I'm not well-educated; and do you play poker, too?

MR. NORMAN WECKERLY: No, I don't play poker. You know, I never, I never, I never learned to play pinochle or poker.

When I went to the Army, I saw these guys losing their whole monthly salary in a poker game, you know, after payday. And then --

MR. KALK: Probably to you.

MR. NORMAN WECKERLY: Yeah, one, one, one guy, the guy was winning so much that I, that I staked him with, with 50 bucks, and you know what, he lost the 50 bucks.

MR. CRAMER: You're --

MR. NORMAN WECKERLY: And that --

MR. CRAMER: -- very well educated.

MR. NORMAN WECKERLY: So that ended my poker.

MR. CRAMER: Thank you.

MR. WAHL: Ms. Smith?

MS. SMITH: I have nothing.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I have nothing further.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions, thank you.

MR. WAHL: Thank you --

MR. NORMAN WECKERLY: Thank you, gentlemen.

MR. WAHL: -- very much, Mr. Weckerly.

You, you should, you should take that show on the road.

MR. NORMAN WECKERLY: No. I've shot my wad.

(Whereupon, the witness was excused.)

MR. WAHL: Please state your name for the record?

MR. AUNE: My name is Earl Aune.

MR. WAHL: Spell your last name for me, --

MR. AUNE: A-u- --

MR. WAHL: -- please?

MR. AUNE: -- n-e.

MR. WAHL: I -- E-u- --

MR. AUNE: A --

MR. WAHL: -- n --
MR. AUNE: A-u.
MR. WAHL: A-u.
Mr. Aune, what is your residence address?
MR. AUNE: 38901 Highway 41; Wilton, North Dakota.
MR. WAHL: Is that also your post office --
MR. AUNE: Yes, sir.
MR. WAHL: -- address.
And do you speak for any group or organization or just for yourself?
MR. AUNE: Only myself.
MR. WAHL: Mr. Aune, as you have heard me advise previous witnesses, your testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the oath.
Perjury is a false statement of material fact which you do not believe to be true.
In North Dakota, perjury's a class C felony, punishable by a fine up to $5,000, imprisonment for a period of up to five years

or both.

Will you raise your right hand, please?

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

MR. AUNE: I do.

E A R L A U N E,

being first duly sworn, testified on his oath as follows:

MR. WAHL: You may proceed.

MR. AUNE: Well, I want to start out, tell a little bit about where I live and so forth. I live along Highway 41, north of Wilton.

This proposed line is going to go in the pasture supposedly across the road from me. Directly across the road is -- which I, I own, it's a quarter.

I, also, I work in Bismarck for the USDA, NRCS plant material center. There's been

talk around here about, you've heard lately, about the native grasses. For over approximately 30 years now, I worked with native grasses. We raise them down there.

And I can guarantee you, that if you tear up any land out there that's got native grasses on it, you are never going to get them back to the same. It is not possible.

A good example is to look at your CRP that's out here. For years, we put a lot of native grasses on there. You don't see them looking like prairie, do you?

So that's what I want you to know, that that isn't going to happen.

Now, also, I was told that they're going to come in and take a strip about 150 feet wide, tear up the topsoil and pile it over here to the side. Go in here, put in their big tower things for the foundation, put the towers up.

After they're all done, hang the lines. All done, they're going to come back, put that topsoil back on and reseed it to what it was.

It's not going to happen. I'll

guarantee you it's going to be full of Canada thistle and probably other things besides, probably other things that are worse.

So my concern is about doing that.

I also might tell you that that pasture that I'm talking about has -- twice, I have seen sage grouse -- or, or not sage grouse, but grouse over there dancing. You know, what -- dancing, they do. Anyway, I've seen them twice in that pasture.

Now what are these towers going to do to that? I really would like to know. I don't think nobody can answer that. I'm afraid they're going to be gone.

So my concern is that, can we move that line?

Now, my friends and neighbors that I live with and work aroun -- around with, they have some ideas. One of them was Lowayne Krush, just lately, he said: well, let's move that line farther to the north.

Well, how about if you take that line and also move it over a half a mile approximately to the west and go straight up. And that's on a section line.

Now you're not going to find hardly anybody along anywheres near that section line for, I don't know, miles. Going straight north.

I can't -- I don't, I don't -- I can't read this map, I didn't bring my glasses, so -- I wasn't planning on reading the map.

But, anyway, that's, that's kind of the suggestions that I got.

And Alan Wagner also earlier had suggested to come from the south and come up, move it over farther to the west. That would put it on a section line.

Like I said, it would take it -- you know, nobody around.

Right along Highway 41, there's probably nine or ten people that would have to look at that line every day if they put it where they want to put it.

If you go down that road at all, you're going to have to look at that line. It may be a half mile away, but you still got to look at it.

Now when I was -- I live on the family farm, I was born and raised there. I

still live there. And, to me, it's a pri -- was a pristine view.

If you notice along 83, coming north out of Bismarck, you look out to the east, up there towards Wilton, you see a lot of these windmills. They're getting to dot the landscape.

Also, there's a lot of power lines going across there, too. Transmission lines. Same thing we're talking about here.

You know, I was kind of glad that we have a little pristine view, but they've also moved those wind towers north along Highway 41 now.

And so every day I have to look at them, even closer than before.

Now I got to look at a power line, too. If we move that to the west, that's going to kind of take it out of my view.

And there's very few people that are going to see it over there. They're going to see it now, anyway. The sa -- the same people that would, would see it are going to see it now.

But all of them other people on the

highway, they wouldn't have to look at it.

And like I said, there's some concern there that I have. And I can't see why they need to put it where they do.

I guess, with that, that's about all I got to say.

MR. WAHL: Ms. Smith?

MS. SMITH: I was just going to ask if you know the section, township and range of your --

MR. AUNE: No, I don't, I'm not good at that.

MS. SMITH: All right, that's all right.

I don't have any other questions.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I don't have any questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions.

MR. WAHL: Questions from the Commissioners?

MR. CRAMER: Thank you very much.

MR. CLARK: Yeah, --

MR. KALK: I have --

MR. CLARK: -- thank you.
MR. KALK: -- one, just one question.
MR. WAHL: Commissioner Kalk.
MR. KALK: Were you in the -- sir, thank you for your testimony. Were you in the room when, when they were testifying about the native prairie up there in the Grand Forks area?
MR. AUNE: Yes, I was.
MR. KALK: So I guess your thoughts would be, you'd probably agree with what you heard those folks say?
MR. AUNE: Oh, definitely.
MR. KALK: Okay. Thank you.
MR. AUNE: It's not going to happen. Like I said, if it -- if they tear up that, that soil, that native soil and native grasses, they're gone.
You can, you can plant them back. You'll get some growing here and some growing there, but how do you plant them back.
They have a niche of their own. They have moved into a little niche on their own. And there may be a little few spots here

they got them. And then there's another spot up here that has the same, same one. And they're all intermixed.

You can't get them intermixed now. You can put them in the thing, but then they're all one solid thing. It'll never be the same.

MR. KALK: Thank you.

MR. WAHL: Anything further, Ms. Smith?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No.

MR. WAHL: Thank you very much, Mr. Aune.

MR. AUNE: Thank you.

(Whereupon, the witness was excused.)

MR. WAHL: Next, please?

You might be the only --

MR. KENSMOE: I was --

MR. WAHL: -- one left.

MR. KENSMOE: -- the last guy on the docket, so here I am.

MR. WAHL: Please be seated.
MR. KENSMOE: Thank you.
MR. WAHL: Please state your name for the record, sir?
MR. KENSMOE: Royes Kensmoe.
MR. WAHL: Spell your last name, please?
MR. KENSMOE: K-e-n-s-m-o-e.
MR. WAHL: Mr. Kensmoe, what is your residence address?
MR. KENSMOE: 211 Eighth Street Northwest; McClusky, North Dakota.
MR. WAHL: Is that also your post office address?
MR. KENSMOE: Yes, it is, your Honor.
MR. WAHL: Mr. Kensmoe, do you speak for any group or organization or for yourself and your family?
MR. KENSMOE: My family and myself.
MR. WAHL: All right. Mr. Kensmoe, as you have ad nauseam heard me advise previous witnesses, your testimony is required to be under oath. And I'm required by law to advise you regarding perjury before administering the

oath.

Perjury is a false statement of material fact which you do not believe to be true.

In North Dakota, perjury's a class C felony, punishable by a fine up to $5,000, imprisonment for a period of up to five years or both.

Will you raise your right hand, please?

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

MR. KENSMOE: Yes, your Honor.

R O Y E S K E N S M O E,

being first duly sworn, testified on his oath as follows:

MR. WAHL: You may proceed.

MR. KENSMOE: I would ask you to go to Exhibit 12 Charlie.

And I happen to be, along with my

wife and son, one of the fortunate 2 to 5 percent I was told by the representative with KLJ that came out, that happened to be on a true diagonal. And I was informed that this is a diagonal project from Grand Forks to Center. And most of what I see is not diagonal.

And we own a small piece of land in the northern end there of the diagonal, Section 23, 147-78. We have land in Section 26, land in Section 13 that is affected by this diagonal.

The KLJ representative said we have 11 structures.

We had formerly signed an option with Otter Tail, to put wind generators on our property.

I have been informed that Otter Tail has released some of it, not all of those three sections, but some of them for transmission line.

The best excuse to date that I have received for this diagonal is a lesser cost. And what I would propose is that they would run the line where the line makes the curve and starts on the diagonal that they would go

straight north until they hit the line running east and west and then go straight through.

And I haven't -- I understand I'm going to receive an explanation from Minnkota on the 29th as to why this can't happen.

And if that can't happen, then I would propose that they run up the section line on the west side of Section 22, which I own. And that section line is just a trail, and I doubt that the trail is very often even on the section line.

And they would turn north in Section 34 and go up that section line there until they are straight west of the east-west line up above. That would be my second proposal.

And I haven't received anything other than the cost factor on that.

And my third option would be to turn and go to the east side of my property and follow that section line north.

MR. WAHL: Ms. Smith?

MS. SMITH: I don't have any questions.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I don't have any questions.

MR. WAHL: Mr. Lein?

MR. LEIN: No questions.

MR. WAHL: Questions from the Commission?

Commissioner Kalk.

MR. KALK: Thank you for your testimony, sir.

Commissioner Clark laid it out that we don't get involved with leases and payments and that kind of stuff, but --

So I'm to understand that there was a potential for you to have some wind turbines and that potential is gone?

MR. KENSMOE: No, not -- it's just that -- and Paul can probably correct me on this if I'm wrong. It's just that Otter Tail has released to Minnkota the right to use this, some of this land for transmission lines.

Is that right, Paul?

MR. WAHL: I'm so -- I'm, I'm sorry, Mr. Kensmoe, he can't help.

MR. KENSMOE: I'm sorry.

MR. WAHL: You're the only one,

you're the only one that can --

MR. KENSMOE: I can't --

MR. WAHL: -- say anything and --

MR. KENSMOE: -- answer that question --

MR. WAHL: -- speak.

MR. KENSMOE: -- then.

MR. WAHL: Okay.

MR. KALK: It was just more of a curiosity than anything I guess.

The -- can, can you tell me about those -- it looks like that -- the wetlands that, that the, the power line potentially diagonals through, it looks like there's some water bodies through 26?

MR. KENSMOE: There's a whole lot of it that they haven't looked at.

MR. KALK: Okay.

MR. KENSMOE: And this -- in Section 35, 26, 23, we do aerial spraying of our pasture there, which we just completed on Sunday. And if this line goes through at a diagonal, it's going to alter that. And I would much prefer to see it on the section lines.

MR. KALK: So we've had witnesses testify they might do aerial spraying, but you're saying you have traditionally done aerial spraying in --

MR. KENSMOE: Yes, --

MR. KALK: -- this area?

MR. KENSMOE: -- we have.

MR. KALK: Okay. Thank you very much.

MR. WAHL: Further questions from the Commission?

MR. CRAMER: Thank you.

MR. CLARK: No, but --

MR. WAHL: Ms. --

MR. CLARK: -- thank you.

MR. WAHL: -- Smith, anything further?

MS. SMITH: No, your Honor.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: No, your Honor.

MR. WAHL: Mr. Lein?

MR. LEIN: No, your Honor.

MR. WAHL: Thank you very much, Mr. Kensmoe.

MR. KENSMOE: Thank you, your

Honor.

(Whereupon, the witness was excused.)

MR. WAHL: Anyone else?

Well, okay, let me ask one more time. The last time I asked at the last hearing we did, why, I didn't get anything the first time around.

Anybody have any second thoughts? Anybody wish to speak to the Commission?

All right. Ms. Smith?

MS. SMITH: Can we have five minutes?

MR. WAHL: You may. You may have as much time as you need.

MS. SMITH: Thank you, your Honor.

(Whereupon, a ten-minute recess was taken.)

MR. WAHL: All right, let's be in order, please.

Ms. Smith, I have a request from the Commissioner to recall a witness.

Mis -- Commissioner Clark.

MR. CLARK: Oh, thanks, Judge.

And I'll, I'll leave it up to Ms.

Smith to decide which one you think is best able to answer my question.

But basically I have two sets of questions. One is on this long length of line, gosh, it's probably 30 miles long. It starts on Exhibit 12c and runs through at least half or a little more of 12d, where it's, it's just a straight-line shot. And the line is just off the section line.

We had a number of commenters, both here, but I think in Carrington, too, regarding why it scooches off that section line for such a long length of, of road -- or such a long length of the line.

And then the other is someone who can just answer questions about the, the weighing of factors that went into consideration of the northern route, as opposed to the southern Highway 200 route.

MS. SMITH: Okay. And the same witness that we are going to call will be --

MR. CLARK: Okay.

MS. SMITH: -- able to handle those questions.

MR. CLARK: Great, thank you.

MS. SMITH: So I'd recall Duane Phillips.

MR. WAHL: All right.

For the -- for perhaps the last time, Mr. Phillips, you understand, of course, that your testimony continues under oath, subject to the penalties of perjury?

THE WITNESS: I understand that I am under oath, your Honor.

D U A N E P H I L L I P S,

called as a witness, being previously first duly sworn, was examined and testified on his oath as follows:

MR. WAHL: Commissioner Clark.

MR. CLARK: Thanks.

Mr. Phillips, if we could -- I think you heard my question before, but if you turn to that 12c where the, the line takes a straight easterly, I guess depends on which way you're looking at it, but east-west route, coming off that diagonal and runs straight for quite awhile, past several townships. Why is it that that was right off of the line, as

opposed to on the line, as it is in so many other places?

THE WITNESS: On, on the section line, --

MR. CLARK: Correct.

THE WITNESS: -- sir.

That east-west portion, again, the exact location of that had to do with some wetlands that were in the area, but was primarily a straight line, thousand-foot-wide corridor that, that, that goes between occupied residences.

You, you can see on Exhibit 12 Charlie, in the middle, that we've got three occupied residences in Section, -- one of the numbers is covered up -- Section 10, Section 11. There's another one on, just on the east side of, of, of the McClusky Canal that --

MR. CLARK: Right. But --

THE WITNESS: -- kind of defines the north side of that.

MR. CLARK: But if I can ask, and it looks like the, the corridor route moves those -- moves the line closer to those three residences, as opposed to it, if you were just

to run it down the, the south end of the section line.

THE WITNESS: And then in going over on the south side, in terms of, of residences, we would have to go to Exhibit 12 delta, and towards the western portion of that, there are a number of homes that are just on the south side of that, that Tenth Street North, Northeast, in Boone Township.

So it was really a desire to get in between those, while, again, I apologize for jumping back and forth, Commissioner Clark, but in Exhibit 12 Charlie, when we get down closer to Tenth Street Northeast, in Hellman Township, which is the township just east of, of the McClusky Canal, you see that there is a number of, of large water bodies that are in Sections 15, 14 and 13.

Well, actually, it might not be Section 15, but, but Section 14, near the Section 15 line, Section 13, and then, and then, again, going across 12th Avenue Northeast. So --

MR. CLARK: I'm sorry, --

THE WITNESS: -- those areas --

MR. CLARK: -- in which, in which township was that?

THE WITNESS: That is in Hellman Township.

MR. CLARK: Okay.

THE WITNESS: Which is, which is just to the east. It's Township 147-76.

MR. CLARK: Okay.

THE WITNESS: And if you look just south of the proposed corridor, in Sections 14 and 13, you see a number of large water bodies over there.

MR. CLARK: Wouldn't it be easy enough, though, I mean, -- I understand we've got some water bodies there close to that section line and we've got, on 12d, one or two residences along that, that Tenth Street Northeast.

Wouldn't it be easy enough to run the corridor, though, for many miles, right down the section line, actually, move the line away from a number of residences, if you just moved it on the, on the south side of 8, 9, 10, 11, 12 of Mountain City Township, and 7, 8, 9, 10, 11, 12 of Hellman Township, I mean, you

could, you could run it right down the section line for quite a ways, couldn't you?

And then when you had those few areas, like the water bodies or those two residences in Boone Township, you could just shade it away from there slightly, couldn't you?

THE WITNESS: Certainly some different options are possible within that area, yes.

MR. CLARK: Wouldn't those options mitigate some of the impacts that we've heard about today?

THE WITNESS: I'm not sure what, what, what, what would be mitigated by that, other than the preference of, of some landowners, landowners --

MR. CLARK: Well, wouldn't it be --

THE WITNESS: -- having to put it on the --

MR. CLARK: -- an impact --

THE WITNESS: -- section line.

MR. CLARK: Wouldn't it be, wouldn't it be impact on cropland?

THE WITNESS: The impact on --

MR. CLARK: Well, the impact --
THE WITNESS: -- crop --
MR. CLARK: -- on farming operations?
THE WITNESS: The impact on farming operations would not change.
MR. CLARK: Why is that? I thought we heard from a number of landowners who said that if you moved the corridor and the line eventually closer to the section line, it becomes much easier to farm.
THE WITNESS: One of -- I think to answer that, we need to talk a little bit about placement of structures relative to section lines.
We did hear a number of landowners that talked about preference of, of setting a structure or a centerline, if you will, approximately 33 feet off of, off of the section line, which is what the typical road right of way is along sections in North Dakota.
The challenge that we have on that is that most of the county and township, depending on, on, on the jurisdiction and the planning authority there, have setback

requirements associated with how far we need to be off of the section line.

And those vary from county and, and township.

The other one is, is it really becomes a safety concern.

If I could draw the Commission's attention to Exhibit 10 alpha.

On the left-hand side of that, there is a depiction of a typical monopole structure and it has dimensions on it.

And you'll notice that the lower arms, if you will, that, that would hold the transmission facility, are 29 and a half feet long.

So if we were able to place, in terms of variances and, and placement of a transmission line, just off that, 33 feet off of the section line, you would have an energized portion of the transmission facility that basically hangs out over the road.

So, so that's a safety concern on, on a number of different issues --

MR. CLARK: But aren't there --

THE WITNESS: -- associated with

that.

MR. CLARK: Aren't there large sections of this line that do run right along section lines?

THE WITNESS: There are, there are portions of the corridor or -- that do run across section line, that is correct, sir.

MR. CLARK: So why is it a problem in this particular section, but not in those other areas of the line where it does run across section lines?

THE WITNESS: Well, in those other areas to where the corridor is, is residing, either on the section line or it's laying across the section line, the, the placement of the structures is, is still, once we get to that route portion of that, it is not going to be 33 feet off the section line unless that's a closed section line, then, then we have some different options.

MR. CLARK: But it sounds like it will be closer than in this particular length of line that we've been talking about, wouldn't it?

THE WITNESS: And, and so one of

the other things that you had asked earlier, sir, is in terms of, of, of a placement of that, what we find typical from landowners in our landowner conversations, is once they understand that, that we cannot place those transmission poles of the structures approximately 33 feet, feet off, and then, then so that they are going to have to be in the agricultural tilled area of, of the farm fields.

So you're not really minimizing the impact on that, is they're going to have to farm around it anyway.

Then normally their preference is, is to move it out into the field enough so that they can get the larger equipment all the way around.

So it actually is less impacting to have the transmission structures a couple of hundred feet in the field than it would be to have them, for instance, 75 or, or, or 80 feet where they couldn't get that larger equipment between the road or the edge of their field and the transmission structure.

MR. CLARK: So you -- it's your

understanding that -- or it's your belief that the, that the testimony from the landowners along that section of line is due to their misunderstanding of, of where the line would, would actually be routed in there and, and the impact on their operation?

THE WITNESS: I don't believe that I would characterize that as a misunderstanding on their part. I believe that those landowners would really like to have the structures 33 feet off the section line. That's just not something, from a safety perspective, that we're able to do.

MR. CLARK: Let me take another run at this.

But there are large sections of the corridor which are sited right over the section lines. Now, even in those cases, you're telling me because of safety, there may be reasons that it's not going to be 33 feet right -- from the right of way, but we've heard from a lot of landowners on this section of line that they would feel much more comfortable having the corridor on the section line, as it is in many other spots on this corridor.

What's the difference?

THE WITNESS: Well, the difference in this area was, when we were siting and made the proposal for the corridor, taking all of the impacts into consideration, including the water bodies and the homes on, on the south side and on the north side, we found a 1,000-foot corridor that could minimize all of those impacts so that we didn't have occupied residences within the corridor and didn't have the large water bodies that we would then have to consider when, when we got to the routing stage.

So that's why that location for the thousand-foot corridor was made, because we could get through there with the thousand-foot-wide with -- without those, those impacts or those avoidance criteria being inside the corridor.

MR. CLARK: Let's -- could you talk a little bit about the, again, the Highway 200 corridor versus the, the corridor that was selected and, and differentiate those?

THE WITNESS: Yes, I can.

Let me pull up the Exhibit that had

the route segments on it. And I apologize for not knowing the number off the top of my head, it's Exhibit 6.

And, again, Exhibit 6 does not have the level of detail that we would like, but --

The Highway 200 corridor was one of the corridors that, that we considered very early on.

When you look at a map of North Dakota, just the way Highway 200 runs, it kind of seems, seems, at first glance, like an obvious opportunity to go and to parallel on that.

But when we began looking at it in detail, right along the Highway 200 area, as was pointed out by some of the landowners, who I heard earlier today, that's where most of the towns and cities are along there. There, there is a large number of residences. Maybe not in each individual township area, but, but when you look at the Highway 200 corridor as a whole, there are a large number of residences through there.

It was particularly challenging in the areas of Foster County, around the

Carrington region. That was a very challenging area.

And then the other one towards that Highway 200 corridor was around the Cooperstown area as well.

Between center-pivot irrigation systems that were in there, occupied residences, the actual city areas themselves and airports located within those areas, areas, that, that corridor along Highway 200 had a, had, had a much higher impact.

MR. CLARK: To what degree were road conditions factored in or considered at all?

We heard a number of folks testify today that, you know, the construction along 200 is going to be a lot easier from an access standpoint than, than the northerly route, which is very remote.

THE WITNESS: Well, again, when we talk about construction act -- the activities, most of, of the construction traffic by the heavy equipment that is used to auger out the foundations, cranes used to put, to put in the rebar and the anchor bolt cage, as well as set

the structure on, on the foundation, are just going to move up and down the right of way.

So moving up and down the right of way. Whether that right of way is in the general vicinity of Highway 200 or, or one of the other North Dakota highways, or whether that's off of rural areas, is not going to be an impact to the construction activities that are out there.

Now there is some, some merit to discussions of supplying the concrete to the actual foundation. And, and some of that will have to be along the rural roads that are in the area. That -- that's why we've been working with counties and, and townships, to talk about the -- those rural roads.

That's why we intend on putting together the traffic plans that will identify which roads are capable of handling those loads, which ones are not, which ones are not capable of handling those loads.

And, and we fully expect that some temporary access measures, whether it be along the roads or, or whether that be along the right of way, are going to need to be put in,

put into place to handle the, the construction activities in those areas.

So that's, that's from a construction perspective.

From an operations and maintenance perspective, the operations and maintenance typical activities don't require well-defined, well-laid-out highways or other type of roads.

Most of it's done by aerial, so, so, you know, that, that does not become a, a, a large factor in, in siting the corridor or siting the routes.

Now obviously constructability, as was testified earlier, is one of the considerations, but there aren't any areas in here that we feel that, that are not constructable.

MR. CLARK: Okay. And then, I think one last question, just on the alkali flats route.

The -- I'm looking at Exhibit 6.

And one of the suggestions that has been made is that a more southerly route should be looked at to bring the -- avoid that area altogether and, and, and, and to bring the line

up from basically straight south.

I see one of the potential route segments that was reviewed was basically along far southern Grand Forks County.

Is -- but I see that there's a segment that was considered, but eliminated, that sort of hooks up that, that southern route.

I don't know if I'm being very clear on this or not. If you can see where I'm talking about, it is right between Nelson and Grand Forks County.

THE WITNESS: The red-colored --

MR. CLARK: The red-colored --

THE WITNESS: -- segment, sir?

MR. CLARK: Right.

THE WITNESS: Yes, I know where you're at.

MR. CLARK: So is -- was that one of the reasons that that southern route was eliminated? And, if so, could you tell me what the rationale was or was it just more a matter of paralleling that WAPA line for some period, it'd just make more sense or --

THE WITNESS: The, the route

goes -- that goes through the southern portion of Grand Forks County there, again, when looking at, at the impacts of, the totality of the impacts for that eastern section of the line, in terms of occupied residences and, and prime farmland through that area, there was a much higher impact on that.

And that's why that northern, northern route, or, or the northern proposed corridor in the North Dakota process was selected.

MR. CLARK: Okay. That's all I have, thank you.

MR. WAHL: Ms. Smith, follow-up to, I think I would prefer to follow up to Commissioner Clark's questions?

MS. SMITH: I don't have --

MR. WAHL: And then, --

MS. SMITH: -- any.

MR. WAHL: -- and then go back to direct for your rebuttal.

MS. SMITH: Okay.

MR. WAHL: Okay. So questions, Ms. Smith?

MS. SMITH: I don't have any

questions on that.

MR. WAHL: Mr. Sagsveen?

MR. CRAMER: Can, can I follow --

MR. WAHL: I'm -- of course, Commissioner. I'm sorry.

MR. CRAMER: That's okay.

I'm going to ask you, Mr. Phillips, about the other section. It looked, from a layman's standpoint, like a reasonable alternative. And the question, simply this: why, why couldn't this line run more directly east of the Center substation and avoid Teri Schulte's driveway? Because it looks to me like there's absolutely nothing in the way.

THE WITNESS: The area of, of Oliver County, between the Center substation and, and of the Missouri River, again, was defined by a couple of different areas there.

One was, the need to get north of the Wilbur Boldt Wildlife Management Area, which is, which is an avoidance area there.

And then, and then going across in an easterly manner in there, when we were looking at that, there were two occupied residences. One, one, as we heard today, was

that -- was Ms. Schulte's property. The other one that shows here is an occupied residence, that is, that is the first, to my knowledge, that I've heard that that is not an occupied residence.

And then the other thing is going more south was the proximity to the existing DC transmission line.

We did consider one that went a little bit more south of where, where we were -- where, where we are proposing to go, but, but the majority of the landowners, and I apologize, I do not have an exact number for you, but the majority of the landowners in that area had asked us to go towards the northern portion of this -- of that, of that run, more towards the section line.

MR. CRAMER: Now that you know that that's an advantage, going through Section 32, is there any reason that this couldn't run a little more south than it's planned to now?

THE WITNESS: Other than the landowner' concerns in that area, I know of no reason off the top of my head. We'd have to take look at that.

MR. CRAMER: Okay. Thank you, nothing.

MR. WAHL: Further questions from the Commission?

Now, Ms. Smith?

MS. SMITH: That answered all of those things that we were going to talk about, so I have no follow-up to that.

MR. WAHL: Okay.

Mr. Sagsveen?

MR. SAGSVEEN: Try not to beat a dead horse here.

REBUTTAL

BY MR. SAGSVEEN:

Q. If you look at 12c. Where it, in Section 7, where it -- the line starts to go east. I'm going to try to follow up on the -- Commissioner Clark's questions.

And he can correct me if I'm wrong, or you can, too.

You had indicated if, if it was to go along the, the section lines between -- you know, starting in the, in the west, Section 7, say it -- all the way to 12, that that might

create a, a safety issue because the length of the, the pole support will hang out.

Is that one of the reasons along the section line there or did that not, maybe not apply in that area?

A. Placing of the structures in, in very close proximity to the section line creates that safety hazard.

Q. So if, if the section line is not developed, per se, let's just, from a, a map, looking at the map here, it doesn't look like there's anything but maybe a, you know, a two-wheel track there at most, because there's no street name or no -- what ap -- it doesn't appear to be developed, as far as the section line goes.

Would that -- does that make a difference to you or do you just make it a common practice to try to stay off of all section lines, regardless of whether or not they appear to be well traveled or not?

A. And to answer that, I am not, I am not enough legally versed in North Dakota law and in real estate law to, to understand completely the difference, but my understanding

is, is that, is that even if there is not a road along the section line, unless, unless through some legal proceeding, and I wouldn't know exactly what that is, that section line has been closed, that there is always the opportunity to place a road there.

And so we would have, have to consider, even, even though there's not a road, that there could potentially be a road there.

MR. SAGSVEEN: I don't have any additional questions.

MR. WAHL: Mr. Lein?

MR. LEIN: A couple.

What was I hearing about them allowing to put so -- right of way on, on roa -- over road right of ways in Minnesota? Is there something different in Minnesota?

THE WITNESS: Well, there is a means by which you can overlap right of ways between, between utility facilities and, and, and road right of ways.

That would need the right of way's permission.

So, so the owner of that right of way, if we were talking about something like

the Highway 200 corridor, that would be the North Dakota Department of Transportation.

But Minnkota would in -- incur some, some liability concerns associated with that.

In most states, if you are in the road right of way, even if you have permission, should that road ever need to be expanded or, or the, the owner or the holder, and I apologize if I got the wrong legal term, but, but basically if the North Dakota Department of Transportation wanted to widen the road, then the expense at, at moving that transmission line would be on the power company.

You know, you know, and so that, that raises up liability concerns.

In terms of what we heard with, with the Fargo, the Monticello line, I don't know of any structures there that are being placed in, in the I-94 interstate corridor. You know, that doesn't mean that they aren't, but I don't know of any.

MR. LEIN: The, the section that Commissioner Clark was looking at on, on 12c, there is a road along that section called Tenth

Street Northeast?

THE WITNESS: Yes, that's on the east side of the McClusky Canal.

MR. LEIN: Is that the area where you're talking about, you can't get too close to the road or --

THE WITNESS: No. That, that close proximity to the road would apply to any, any roads or open section lines that were in there.

MR. LEIN: I'm noticing that Tenth Street Northeast crosses right by those large bodies of water lands -- wetlands in Sections 13 and 14, to the north of them.

THE WITNESS: I --

MR. LEIN: It seems like you could get closer to those and get further away from the house and, and make everybody happier getting closer to the section line there.

What I'm wondering is, if the corridor were a little bit wider through that section, we could deal with those issues when the route was, was, was designated.

THE WITNESS: One of the other challenges that you have through this area, when, when we talk about potentially shifting

the corridor, is on the east side of the McClusky Canal, through, through the majority of the rest of Sheridan County there, is where the planned Sheridan Ridge wind farm goes.

So the, the corridor that we have now is one that, in conversations with OTESCO, is, is compatible to their, to their wind farm siting and plans that they have for that area.

But, but it's not -- but it -- if we were to look to shift that, then, then that might impact the, the plans they have.

MR. LEIN: Is, is -- have you heard that the OTESCO's going to go forward? That -- I've heard of that project before, too, and, frankly, I think it's in trouble.

THE WITNESS: I was not on -- I was not at all of the meetings --

MR. LEIN: Okay.

THE WITNESS: -- associated with that, but, but I do know that OTESCO has some definitive plans that are made up and that they, they have a strong opinion that that project will at some point in time go forward and be constructed.

As to exact timelines and exact,

exact status of that project, I, I could not speak to that, sir.

MR. LEIN: I'm still wondering if, if, if we went a little wider than a thousand feet, if we would have a problem with that? With this corridor as it -- it's inside the Macro-Corridor Study area that, that's been studied in the EA. And I'm just wondering if there's any, any problems that are, that are seen with that on your part?

THE WITNESS: What has been proposed has been a thousand-foot-wide corridor.

MR. LEIN: Whoops. Another, another question I had was, on paralleling the DC line.

What is stopping us from running -- it seems to me you're crossing in on the south side of the, of the waterfowl area of the Wilbur Boldt area.

And, and you could just parallel that line all the way coming out of the, the substation area.

THE WITNESS: The existing transmission line actually passes through the

Wilbur Boldt Wildlife Management Area, which the 1,000-foot proposed corridor, even though it does en -- encompass the very northern portion of the Wilbur Boldt Wildlife Management Area, as was testified earlier, the, the route and, and the transmission facility itself would not encroach on the Wilbur Boldt Wildlife Management Area.

MR. LEIN: But if it were on the south side of that line, it would miss the, the Wilbur Boldt area, right?

THE WITNESS: If it was on the south side of the DC line?

MR. LEIN: Yes.

THE WITNESS: Yes, it would.

MR. LEIN: But we can't put it there either or --

THE WITNESS: The concerns about going to the south side of the DC line is now you would end up with multiple crossings of, of the existing line, whi -- which is problematic in terms of reliability and operations and maintenance considerations. That, that goes along with multiple crossings of any of, of the transmission line.

Also, to the southeast side, if you will, looking on Exhibit 12a, where, where the words of the lay-down area are coming out of the Center substation and trying to make the turn and, and get to that south side, was also challenging, with the amount of existing transmission lines that are out there, including the feeds out of the Milton R. Young 1 and 2 plant. You have existing 230 lines. There is Oliver County 1 and 2 wind farm lines that are also coming into that area.

So there's a number of lines out there in between the ground terrain and the layout of that and all the existing lines of the decision that was made to go, to go north and on the north side of the Wilbur Boldt Wildlife Management Area.

MR. LEIN: Okay. Thank you, no further questions.

MR. CLARK: I hate to do this, --

MR. WAHL: Questions --

MR. CLARK: -- but --

MR. WAHL: -- by the Commission? Commissioner Clark.

MR. CLARK: I -- I'm going to take

one more run at this, but -- spurred by a question that Mr. Sagsveen asked.

You had responded to his question regarding, why not put it on the section line, saying that there's safety concerns if you place it there.

Yet, there are a number of spots with fairly lengthy lengths of line that -- where the corridor is basically following the section line.

Should we be disallowing those portions of the line -- of the, of the corridor in those sections where it is basically following the section line?

THE WITNESS: The earlier question had to do with, with, with the physical placement of the poles at 33 feet or just off of 33 feet.

The corridor that we are, are proposing is, is at 1,000 feet wide.

I mean, I, I talked about the reasons why we can't put it -- why we couldn't put a facility directly on the section line or in very close proximity to it, but if we have a thousand feet to work with to route within,

some of those corridors do, do fall on the section line. That doesn't mean that the route will fall on the section line.

MR. CLARK: Okay. So there would not be a problem putting the corridor as defined on Exhibit 12c, continuing into 12d, on the section line?

THE WITNESS: Other than it -- if you were to place the corridor on there, you do increase the potential impacts that you have.

In terms of the larger water bodies. And if you follow that corridor all the way over, occupied homes within the corridor.

MR. CLARK: I believe we'd be moving -- wouldn't you be moving away from a number of other occupied homes further and adhering to at least some of the wishes of the landowners as we've heard expressed today?

THE WITNESS: If you move that corridor down to the section line, you, you would move away, you would move further away from, from the three homes that are in Mountain City and Hellman. And then you would, you would include the two home areas in Boone

Township within the corridor.

MR. CLARK: Isn't that only assuming if -- that Minnkota just runs a straight line and doesn't choose to vary it a bit?

THE WITNESS: That would be correct.

MR. CLARK: Okay.

Thank you, that's all I have.

MR. WAHL: Further --

Commissioner Cramer.

MR. CRAMER: Okay, I'm going to go back to Oliver County again.

And grant you that if you run the line directly east of the Center substation, you're going to run into the Wilbur Boldt Wildlife Management Area.

And if you go south, you're going to end up crossing the DC line a couple of times and you don't want to do that.

So if -- as it angles out of the substation to the northeast, if you go -- if you extend that, you know, to the section line and then go directly --

MR. KALK: Across.

MR. CRAMER: -- east, across directly east there, you'll go to the north side of Ms. Schulte's home. And she'll be happier.

Now, I also see that when you do that, you're going to get closer to another residence, but not as close as you are currently to Ms. Schulte's home.

Why -- what was -- what would be wrong with that scenario?

THE WITNESS: I just want to make sure I have that correct, Commissioner. You were talking about running to the north side of, of the sections, that would be Section --

MR. CRAMER: 27, twenty --

THE WITNESS: -- 26, 25, --

MR. CRAMER: Yeah.

THE WITNESS: -- 30, --

MR. CRAMER: Yes.

THE WITNESS: -- 29?

MR. CRAMER: Yes.

THE WITNESS: Well, there's an occupied residence, basically it looks like it's, it's on Section 25 in the northeast corner that is just south of the section line.

So that, you know, that would put that residence almost right in the middle of the corridor, if we were to move the corridor and abut it against the, the north, the north section line.

And then there are a number of other homes -- because that was one of the, one of the areas that we looked, we looked at along that 22nd Street Southwest that is there.

And then, as Ms. Schulte pointed out, there are a couple of homes on the east side of Highway 25. There's another one that is, that is -- looks like it's on the south side of Section 24.

So, so it was the homes that, that kept us from driving to that north side of the section.

MR. CRAMER: Okay. What if we only went to the half -- what if we went to the half section line there on 27 and then veered straight east?

THE WITNESS: Yep.

MR. CRAMER: On the half section line.

THE WITNESS: And then the

difference between going across the quarter section line, or, or basically moving it a half a mile north, than where we have it now, was the difference in, in the land use on the eastern portion that is tilled land.

Where we are going across is almost all pasture.

Where, where we have proposed to go across, excuse me, Commissioner.

MR. CRAMER: Oh. Boy, it looks to me -- and, and, again, it's ki -- it's hard to tell, but -- how much of a difference? I mean, how much more cropland or tilled land and pastureland? How --

THE WITNESS: And I don't have those exact statistics for you, Commissioner, but Section 27, the majority of Section 26, Section 28, as you go more east, and I believe the southeast corners in both 29 and 30, are all tilled farmland.

I, I would have to go back and, and check, check the data points we have for that, but, but just looking at the map and trying to recall just off the head -- you know, just off my head from memory, --

MR. CRAMER: All right.
THE WITNESS: -- those, those are the challenges in that area.
MR. CRAMER: Thank you, I have nothing.
MR. CLARK: I'm --
MR. WAHL: Commissioner Clark.
MR. CLARK: I'm curious. Would Minnkota be willing to file late-filed Exhibits that would give the Commission the opportunity to look at what a, a corridor, a different corridor, say, in, in Ms. Schulte's region would look like?
I mean, to me, it would make more sense to perhaps dip that corridor down towards the south, paralleling the DC line a little bit further than you already are. Get the corridor out of her front yard.
And then, a similar Exhibit, which would allow the Commission to look at what a corridor would look like running down the section lines as we've been discussing at some length in Exhibit 12c and d?
MR. KALK: Could I interject just a quick thought to the Comm -- fellow

Commissioners?

We've talked before about requesting to keep the record open. Is this -- there's a lot of things, like you just brought up that -- I don't know if that's something that's -- what's better, because I just -- this is a very big line.

So I can see us getting into a work session and having a lot more questions like this come out and then, then trying to get those back into the record.

So I don't know if it's better to ask for a bunch of late Exhibits or to, to keep the record open.

MR. CRAMER: Or deny it.

MR. CLARK: Oh, part --

MR. KALK: Well, exactly.

MR. CLARK: I think I'll --

MR. KALK: The --

MR. CLARK: I, I think what I'm trying to do is to -- the Commission's always in the position of trying to ask itself as compared to what. And that's really what --

MR. CRAMER: Right.

MR. CLARK: -- sometimes it's as

compared to the rules, as they're written. Sometimes it's as compared to the, is there a corridor that may provide some relief from some concerns that have been raised at hearings like this.

And whatever the process is for allowing us to, to make that comparison, I think it would be helpful for the Commission, and I think perhaps helpful for Minnkota as well.

MR. WAHL: You, you know, Commissioners, I'm a little bit embarrassed to, to respond. I'm unsure of the procedure to keep the record open.

MR. KALK: I don't even know --

MR. WAHL: I --

MR. KALK: -- that it is a legal --

MR. WAHL: I --

MR. KALK: -- procedure, but we've talked about it. I mean, --

MR. WAHL: Well, you know, I have, I have done that in other hearings, in other agencies, but the situation -- those weren't public hearings. That's the problem I have.

I, I really can't, I can't address that question. Oh, well, certainly we can have late-filed Exhibits.

MR. CRAMER: Right.

MR. WAHL: No problem.

But I can also anticipate, Commissioner Kalk, that there's an advantage in being able to, in the course of a work session, say: well, okay, so -- you know, one thing leads to the next, to the next.

So then you'd, you'd really like to be able to request the company to participate, to provide additional information as, as you undertake your deliberations.

I would tell you that, off the top of my head, I, I really don't think that that is possible, because of the requirement for a public- --

MR. CRAMER: Yep.

MR. WAHL: -- noticed hearing.

MR. KALK: Okay.

MR. WAHL: So I wouldn't want to say no, but I, I can't do that at -- I'm not comfortable doing that at this point.

So I, I guess what I would su --

and the only suggestion I can make to you is to -- as a request for the late-filed Exhibits, which you've reque -- which you've requested.

MR. KALK: Okay.

MR. CLARK: Fair enough.

MR. WAHL: Ms. Smith, --

MS. SMITH: I actually --

MR. WAHL: -- what is --

MS. SMITH: I'm sorry. Can I make a response to the late-filed Exhibit?

There's an issue that I see that I want to clear up before we go further. Is that all right?

A legal issue.

MR. WAHL: What, are you going to object?

MS. SMITH: No. But my -- I -- what I'm going to say is is that you have a Notice issue if we are asked to look at a new route that affects landowners outside of this corridor.

That's the only thing I'm going to say. Because we have a duty to make sure that we have a record that's viable and not going to be challenged on Notice issues.

I understand if you have an area where it's the same landowners, but I think we've got an issue with one that's different landowners.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: Well, I think we are already kind of sitting on that issue, based upon the fact that the corridor proposal is a thousand feet, which, which, I think in your, in your, kind of opening statements, and I think everyone recognizes that the, the width of the corridor is within the discretion of, of the Public Service Commission.

So that, in and of itself, presents the same problems that, that you just talked about, because if we were to deviate by any, any foot or any, you know, hundred feet or a thousand feet, we'd be potentially having a Notice problem, just the same as if we were to accept a late-filed Exhibit with an alternative or maybe a, a slight adjustment.

And I, I think if we were to conclude that there couldn't be any adjustment in any of this, then, then certainly there'd be no reason to have any landowners testify as to

some alternative options.

But I think it's -- you know, this -- our -- obviously it's a little off the cuff, but it, arguably, it's within the discretion, I think, of the Public Service Commission to adjust the, the route -- or the, the corridor up to the maximum limits that are identified in statute.

That presents a Notice problem, I think we're going to have to look into that a little, a little more deeply.

But, you know, we can, we can end this hearing and, and proceed under the, under the understanding that it could be adjusted at the will of the Public Service Commission.

MR. WAHL: When you say: adjusted, what, in -- or are you, are you, are you, are you saying that the Commission can move the corridor or widen the corridor without --

MR. SAGSVEEN: I'm --

MR. WAHL: -- further --

MR. SAGSVEEN: Aren't they both -- isn't that the same question?

Well, I'm not talking, --

MR. WAHL: Not as it was --

MR. SAGSVEEN: -- I'm not talking about re --

MR. WAHL: -- stated as -- not if you're going to take the same width and, and move it north, south.

MR. SAGSVEEN: No. I'm sorry, that's not what I mean.

I'm talking about purely width issues, where the, the, the Code talks about, you know, the width may be no more than, I believe, 6 miles wide and, --

MR. WAHL: Right.

MR. SAGSVEEN: -- and something like that.

And I, I believe the Code provides the Commission with the discretion to make it smaller.

Similarly, if, if the corridor request is for a thousand feet, I would say a good argument could be made that the statute authorizes the Commission to make it larger.

Now I'm certainly willing to hear Ms. Smith's opposition --

MR. WAHL: But I --

MR. SAGSVEEN: -- to that.

MR. WAHL: But let me be clear about what -- what's being -- what Commissioner Clark requested.

He's, he's asking to -- he's looking at alternatives to a thousand-foot-wide corridor, say, several hundred feet north, south, whatever.

MR. CLARK: Sure. It'd be --

MR. WAHL: If --

MR. CLARK: -- something that the Commission could consider --

MR. WAHL: Yes. I understand.

MR. CLARK: -- when we get into work sessions as --

MR. WAHL: Which, --

MR. CLARK: -- potential alternatives.

MR. WAHL: -- Ms. Smith, you --

MR. CLARK: I mean, otherwise, --

MR. WAHL: -- it's your position it can't be done without Notice?

MS. SMITH: It's, it's my position that if you are moving the corridor and the people do not know that that's where the proposed corridor is going to be located, then

they cannot -- they may not have said anything because they didn't know that's where it was going to be proposed.

And I understand if you're talking about the same landowners that maybe have voiced an issue, but when you are talking about maybe trying to move to a quarter or a half section line or something, that's, that's a very different situation.

MR. CLARK: Sure.

And that's a good point.

My only -- if anything, I, I think this might be helpful for Minnkota, because if the Commission doesn't have any alternative except for the, the corridor that's proposed, then it becomes effectively a yes-no question for the Commission, as opposed to more flexibility that we might otherwise have.

But I appreciate the concern expressed.

MR. WAHL: Well, in my ignorance, prudence seems to me that, for the moment, that Ms. Smith's advice is, is appropriate.

I, I, I really -- I'm -- we -- Notice is fundamental to everything that we do.

MR. CLARK: Yeah.

MR. CRAMER: Yes.

MR. WAHL: And I, and I agree. I don't -- we didn't do -- put all this work in to wind up with a defective record. That's for sure.

So I think we should not do that.

I -- but at the same time, as you have heard the Commissioners, it seems to me that, that as -- both counsel for Minnkota and counsel for the Commission, should aggressively pursue an alternative to, if there is one, to getting the information which Commissioner Clark and the other Commissioners seek.

Because Commissioner Clark is right, otherwise they wind up with a yes or no decision, which I think is not in anybody's interests.

So I, I guess, Commissioner, I, I would say that we're not able to do what you want, and let it be at that, and the lawyers should look to a solution, if they care.

MR. CLARK: Well, there are usually ways to do that, it may take a little bit more time then. You know, --

MR. WAHL: Yeah.
MR. CRAMER: Right.
MR. WAHL: And it may be that you're not -- that we're going to have to, we're going to have to ReNotice a further hearing.
MR. CRAMER: I, I mean, you know, the alternative, of course, is that we have a work session and we approve --
MR. CLARK: Portions, but not all portions.
MR. CRAMER: -- 220 miles of 257 miles and we don't approve 37 miles, and then you're stuck with --
MR. CLARK: I mean, we're done with it.
MR. CRAMER: Then we have another, you know, -- you know, a whole nother case.
MR. WAHL: All right.
MS. SMITH: Well, I --
MR. WAHL: I don't think it's productive to pursue this --
MS. SMITH: No.
MR. WAHL: -- now. Yeah.
MS. SMITH: I don't either.

MR. WAHL: Okay, all right.

Any -- Commissioners, anything further from the Commission?

Commissioner Kalk?

MR. KALK: Just to what the attorneys -- this, this is the question you and I had back in Northwood about this, so let -- the attorneys will sort this out after, that's the plan?

MR. WAHL: Yeah, well, they've got their answer.

MR. KALK: Yeah, okay.

MR. WAHL: So they can decide what they want to do, if anything.

MR. KALK: Okay.

MR. WAHL: Foll -- anything further, Ms. Smith?

Now, I'm still -- I'm really -- I don't know, is this -- in -- this -- have we -- are you -- has your rebuttal been covered or are we still looking for additional rebuttal to Commissioner Clark's initial questions?

What I want now is anything further to Commissioner Clark's series of questions?

MS. SMITH: I don't have any

further on those questions.

MR. WAHL: Okay. Mr. Sagsveen?

MR. SAGSVEEN: Are you asking whether I have any --

MR. WAHL: Yes, we're --

MR. SAGSVEEN: -- questions?

MR. WAHL: -- still following --

MR. SAGSVEEN: I don't have anything --

MR. WAHL: One more --

MR. SAGSVEEN: -- further, --

MR. WAHL: -- round.

MR. SAGSVEEN: -- no.

MR. WAHL: Mr. Lein?

MR. LEIN: Nothing further.

MR. WAHL: Okay. Now, now, have you still -- does, does Minnkota have additional rebuttal?

MS. SMITH: Can I have just five seconds --

MR. WAHL: Sure, --

MS. SMITH: -- for --

MR. WAHL: -- sure, sure. Take, take what time you need, we're here.

(Whereupon, a seven-minute recess

was taken.)

MR. WAHL: Okay. Let's be in order, please.

Ms. Smith?

MS. SMITH: We are finished with Mr. Phillips, if we are all finished with Mr. Phillips.

MR. WAHL: Yes, I need, I need just your, your pass and Mr. Sagsveen and Mr. Lein and we're finished with Mr. Phillips.

Does -- you have no further, you have no further questions for Mr. Phillips?

MS. SMITH: I have no further questions.

MR. WAHL: Mr. Sagsveen, --

MR. SAGSVEEN: No.

MR. WAHL: -- any further questions.

Mr. Lein, any further --

MR. LEIN: No --

MR. WAHL: -- questions?

MR. LEIN: -- further questions.

MR. WAHL: Thank you very much, Mr. Phillips.

THE WITNESS: Thank you.

(Whereupon, the witness was excused.)

MR. WAHL: Now, Ms. Smith?

MS. SMITH: I would recall Terry Fasteen.

MR. WAHL: Okay.

Mr. Fasteen, you understand, of course, that your testimony continues under oath and subject to penalties of perjury?

THE WITNESS: Yes, sir.

T E R R Y F A S T E E N,

called as a witness, being previously first duly sworn, was examined and testified on his oath as follows:

MR. WAHL: Ms. Smith.

REBUTTAL

BY MS. SMITH:

Q. All right. We would start with Exhibit 12c, in the Exhibit book.

And could you, looking at Exhibit 12c, Mr. Fasteen, could you explain the status of right of way option acquisition along the

stretch that runs from Section 7 in Township 147 North, Range 97 West, to the east?

A. Yes, I can.

In this area, we've -- we do have a lot of the landowners who have already signed options in that Mountain City Township. We only have one landowner who has not agreed to that option.

Also, crossing into Hellman Township, the first 2 miles, we have, also have -- those are landowners who have signed the options there, also.

I guess what I can say is, in this particular area, we've got landowners who would prefer us be on the sixteenth or quarter line, as many as who would prefer us to be on the section line. It's individual preference.

Q. All right. And then, if you will turn back to Exhibit 12a.

We have a, a proposition in the section that leaves Center 345 kV substation.

MS. SMITH: And I have to make a little statement in order to make this make sense as to why I'm asking Mr. Fasteen a question, but --

Q. (By Ms. Smith) Our proposal is that the corridor's widened so that the northern edge remains as it is and that it extends down to the DC line and that would be -- I do the lengths, but -- I would assume we could do that until we get to the -- between Section 35 and Section 36 and widen it out at that point.

And you'll have to correct me if I'm wrong on what I just said, but are the landowners in that -- in those sections the same landowners as are currently in the corridor?

A. That is correct. In 142-83, on the south side of our corridor, those landowners own the whole sections.

And currently, --

Q. Go ahead.

A. Currently, the landowners in Sections 34, 35 and 36 have signed option agreements.

Where Ms. Schulte lives, Ms. Schulte and The Trust, of which she's affiliated with, have not signed.

The next adjacent landowner hasn't

signed because he's dealing with flooding.

But then from there, proceeding over to the Missouri River, we've got all but one section of land tied up with options currently.

Q. So in that whole stretch, how many landowners have not signed: two? I, I guess --

A. Three, if you include The Trust.

Q. You're right.

MS. SMITH: So I guess I have no further questions for Mr. Fasteen.

MR. WAHL: Mr. Sagsveen?

MR. SAGSVEEN: I have no further questions.

MR. WAHL: Mr. Lein?

MR. LEIN: Can you tell me again where you're proposing that as Section 36? Is it -- is everything you're proposing in 142 and Range thirty -- 83?

THE WITNESS: To widen, to widen the corridor, sir?

MR. LEIN: Yes.

THE WITNESS: We would look at that in Sections 31, 2 and 33 in 142-82 and

potentially a portion of Section 36 in 142-83. We will want to try to diagonal down to try to accommodate some of Mrs. Sho -- Schulte's concerns.

MR. LEIN: Okay, thank you. No further questions.

MR. WAHL: Questions from the Commission?

Commissioner Cramer.

MR. CRAMER: This is -- well, I'm just going to take a chance, as a Commissioner, that I won't be objected to.

I have to ask you about something else that came up in one of, one of the, one of the other witnesses, that said -- I guess it was Mr. Weckerly, that's made the claim that he had asked not to allow agents on the land and three times they still went on the land.

Is, is that -- could you, could you respond to that?

THE WITNESS: Sure.

The problem I -- the thing I can't tell you is not only is Kadrmas, Lee & Jackson out there, but there's a soil boring crew, there's a crew doing cultural surveys,

historical surveys, tree counts.

At this point in time, I cannot honestly say that that's true.

Plus, as Mr. Weckerly alluded to, he was involved with our firm in another project. And, during that project, there was a, a group associated with that project that did trespass on his land, also.

So I can't give you the answer you're looking for at this time. It's a possibility.

Part of the concern, also, is, when our survey crews are out working, they're looking for section corners. So part of the trespass could be that these people were on the section line looking for section corners. And several of the landowners do try to assert that no one has the right to that 33-foot-wide strip.

MR. CRAMER: Uh-huh.

THE WITNESS: And, again, I can't judg -- you know, I can't give you a definitive answer.

MR. CRAMER: No, that's, and that's good enough. I appreciate it, just wanted to

see if there was a response to it.

THE WITNESS: Sure.

MR. CRAMER: Thank you.

MR. WAHL: Further questions from the Commissioners?

Commissioner Clark.

MR. CLARK: Would there be so -- getting back to the, the line as depicted on 12c and 12d that we've been discussing after some length, that runs down the quarter sections, would there be some problem in, in, in that area, widening the corridor so that there could be some taking of consideration in personal preference of landowners?

You indicated some landowners have a preference of running down the quarter section, some quite clearly do not.

Is there a problem with having some sort of wider corridor in that area so that you'd, as a company, would have more latitude and the Commission would have more latitude when it came to the routing of the line itself?

THE WITNESS: The only thing I couldn't comment on is if we would be adding additional landowners, because I know in some

of the stretch, there are persons with 10 or 20 tracts that might not be included in this current thousand foot.

It -- it's something that could be reviewed. I, I really can't give you a, a true answer right now.

MR. CLARK: That would be a land acquisition problem, more than a, a Commission certificating problem. Is that right?

MR. WAHL: No, --

MS. SMITH: May not --

MR. WAHL: -- we'd still have a Notice problem.

MR. CLARK: Oh, the Notice issue, sure, sure.

MR. WAHL: And --

MR. CLARK: I mean, aside from that.

MR. SAGSVEEN: I'll --

MR. WAHL: Just --

MR. CLARK: I was just thinking out --

MR. SAGSVEEN: I'm --

MR. CLARK: -- loud.

MR. SAGSVEEN: Yeah, --

MR. WAHL: Mr. Sagsveen?
MR. SAGSVEEN: -- I'm going to follow all of this up after --
MR. LEIN: Yeah.
MR. CLARK: I mean, I --
MR. SAGSVEEN: -- he's done.
MR. CLARK: That was the last question I had.
MR. WAHL: Okay. Any further questions from the Commission?
Ms. Smith?
MS. SMITH: No, your Honor.
MR. WAHL: Mr. Sagsveen?
MR. SAGSVEEN: Nothing, your Honor.
MR. WAHL: And Mr. Lein?
MR. LEIN: I was going to ask along Commission Clark's questioning right there, if that corridor was just extended down to the section line, then it seems like you wouldn't be dealing with any additional landowners, so I was going to ask if that was a possibility.
MR. WAHL: So I take it that's not a question?
MR. LEIN: I guess it was.
MR. WAHL: Oh, all right.

THE WITNESS: I'll, I'll have to say the same thing, I'm not sure that, through that whole stretch, that all those landowners do own all that property down to the section line.

There might be some smaller tracts up in that area. Because it's an area known for waterfowl, hunting and sometimes farm sites are small tracts of land have been bought adjacent section lines, so I, I can't verify that there wouldn't be a, a problem there.

MR. LEIN: Is it possible to do some kind of a late-filed Exhibit on that?

MR. WAHL: Well, --

MR. SAGSVEEN: I think -- your Honor, --

MR. WAHL: Well, we can -- let me just say one thing, kind of thinking -- well, not kind of, thinking out loud.

I mean, we can continue this hearing, we don't need to close this hearing. And we can all put in some time in the books and say just what our alternatives are.

And then, I mean, if, if -- well, first of all, if there's no other landowners affected, if our Notice is good and our record will be good, then we can go ahead and file the Exhibits, as I understand it.

But other -- and there may still be -- I'm, I'm not saying we can't do this somehow. I'm simply saying I'm not comfortable with doing it now.

Now, Mr. Sagsveen.

MR. SAGSVEEN: I want to -- if I may just read a, a -- one Rule that I think might spawn some movement, and that's in Chapter 69-06-04, under Certificate of Site or Corridor Compatibility.

The Commission may allow it -- allow an applicant to amend its application at, at any time during the pendency of an application.

A rehearing may be required if the Commission determines that a proposed amendment, which is received after the hearing process has been completed materially changes the authority sought.

In addition, under 69-06-04-02,

it's -- the way I read this, the Commission -- the reque -- this Rule provides the requirements of an Order and an Order approving issuance of, of a certificate shall contain findings that the application with modifications, if any, meets the site corridor evaluation process.

And there's a whole step process to either approve, accept or reject the modifications.

So back to the first part of what I was saying. I think we should think about right now whether or not we want to treat this as a, as a late-filed Exhibit or simply they can amend the application.

And I, I guess I don't read that as requiring us to make any additional Notice requirements, unless the Public Service Commission determines that it materially affects the applica -- the original application.

MR. WAHL: What was your first Rule, please?

MR. SAGSVEEN: 69-06-04-01, --

MR. WAHL: I --

MR. SAGSVEEN: -- Subsection 4.

MR. WAHL: I may not have that, because I only have the -- what pertains to the conduct of the hearing.

I do not have that.

Well, you know, it is late in the day.

And, and -- that's not good. And I'm not -- I, I really -- and I'm not, I'm not entirely comfortable simply reading the Rule.

And I have no idea what case law is out there.

But, ultimately, a good lawyer likes to find some case law, as you know.

And I'm not going to be comfortable unless somebody can tell me there's no case law. And then we can ruminate about what the Rule means.

I'm, I'm not willing to do that tonight.

I think what, I think what I will do is finishing up -- finish up what questioning we have here and we'll continue the hearing. And leave the hearing open, so to speak, for what action we might reasonably

take, if any, by simply continuing the hearing.

And I, I -- we can -- I think the -- I -- I'm not suggesting we continue the hearing for additional testimony, I'm simply saying we continue the hearing to wrap it up.

And we can -- everybody's in Bismarck. We don't -- and lawyers who do wish -- if anybody else does -- do wish to attend, they can participate by telephone.

That would be my thought.

MR. SAGSVEEN: My only addition to that is whether or not everyone's comfortable when we reopen the hearing, --

MR. WAHL: We're not --

MR. SAGSVEEN: -- whether or not we --

MR. WAHL: -- going to reopen it, we're just -- we're going to continue the hearing.

MR. SAGSVEEN: No, I'm -- I mean, when we meet again, --

MR. WAHL: Okay.

MR. SAGSVEEN: -- do we need to ReNotice all, all the counties?

MR. WAHL: No, I don't think so. I

don't think so.

We're, we're -- depending -- the, the Notice depends on whether we change the Notice that is out there.

The house is empty. There is nobody here who is here to testify on this Notice.

So I'm simply saying, we, I think we can conti -- I believe we can continue the hearing for whatever additional work needs to be done by the lawyers, myself and the Commission.

I.e., what -- can we provide a, a late-filed Exhibit.

I'm not -- and if, if, if Minnkota is willing to extend the, the, or widen the corridor in -- near Center, further out, Commissioner Clark has suggested that, possibly, that it will work to widen the corridor there.

Now the only issue that remains there, are there, are there landowners who are, additional landowners who would not be aware of this.

And perhaps that's a solution. I

think we can do that at a continued hearing, without any further Notice and simply with the lawyers and the Commission.

Ms. Smith?

I mean, it's your case.

MS. SMITH: As far as -- I, I don't see an issue with that. I, I think your rationale is correct on the Notice --

MR. WAHL: With the understanding --

MS. SMITH: -- portion.

MR. WAHL: -- that I'm largely speculating now.

You need to -- are you -- you're not -- you haven't got a basis for a decision until you've been in the books, but --

MS. SMITH: Yes.

MR. WAHL: But I agree, that is, I think we can move this along to that point, without closing the door and making things even more difficult for the Commission.

And maybe we can do more.

You know, maybe you can address -- maybe you can provide some alternatives to Commissioner Clark, if, if there's a basis for

doing that without jeopardizing the record.

So what I'm proposing is we, is we finish up what questioning there is, if any, and that we continue the hearing sine die.

MR. SAGSVEEN: Your Honor, I -- Mollie and I can -- will meet right away next week and we'll try to figure out a way to wrap it up.

MS. SMITH: Can I understand the -- let -- what you -- when you say: continue, what are you -- what do you have in mind for next week? What's your --

MR. WAHL: Whatever the lawyers --

MS. SMITH: -- the next step?

MR. WAHL: -- decide they want to do.

MS. SMITH: Okay.

MR. WAHL: Maybe you, maybe you, maybe you say: listen, we, we don't -- I'm not -- forget about con -- forget about Mr. Sagsveen, you take a look at this and say: hey, I've -- we're, we're done, I'm not doing anything further. Okay?

MS. SMITH: Okay. That's, that's fine. If that's the approach that we're going

to take, I think that will work.

MR. WAHL: But I would expect you to come back after conferring with Mr. Sagsveen and saying: hey, here's how we're going to finish this up and get all of the information we can get in.

MS. SMITH: Okay.

MR. SAGSVEEN: Yeah, what I would propose, then, is that once we conc -- figure out what we're going to do, we'll jointly submit a letter to you and then we'll, we'll probably have to reopen the hearing with the court reporter, you -- whether or not we do it over the phone or in person, and then close it out.

MS. SMITH: I would --

MR. WAHL: Oh, sure.

MS. SMITH: -- prefer -- well, do we have to do it that way or can we file a late-filed Exhi -- file an Exhibit that addresses, that addresses whether we can address Mr. Clark, or Commissioner Clark's concerns?

I'm concerned about --

MR. SAGSVEEN: No.

MS. SMITH: -- reopening the testimony again. That's -- I --

MR. SAGSVEEN: I'm not, I'm not saying that we can do that, I'm just saying, we'll figure all of that out as soon as we can and then, and then we'll, we'll move from there.

MR. WAHL: Yeah.

MR. SAGSVEEN: But --

MR. WAHL: Just send me an e-mail and, and say: let's please schedule a, a, schedule a time and day. We're going to need one hour, we're going to need half a day, whatever.

Let's schedule a time and, and day convenient to the, to the Commission and counsel and we'll do it in the Commission hearing room and, and, and we'll schedule it.

MR. SAGSVEEN: Yeah, I don't think there's any problem with leaving the record open at this time.

MR. WAHL: Right.

MS. SMITH: I have a different proposal. Could we, instead, do the late-filed Exhibit and address this area?

I mean, we can address all of it in a late-filed Exhibit without having to have everyone meet again and reopen the record and have a set time to do that.

We can put something in writing that says --

MR. WAHL: Yeah, but --

MS. SMITH: -- what we --

MR. WAHL: -- at this point, you're not, in fact, going to -- you're not, in fact, -- you don't, in fact, know whether you will submit a late-filed Exhibit.

MS. SMITH: And if we didn't, we would submit a letter that says we are no longer going to file a late-filed Exhibit.

MR. KALK: Your Honor, if I could just say one thing.

One of the comments I made earlier was that while Commissioner Clark's comments are fresh in our mind, we've got a whole -- I had numerous comments the first day, and there -- there's still that question of we get together and what information might be requested out of that still somewhere in this piece.

MR. WAHL: Well, I appreciate that, but that's where I have a real problem, but that really requires some research.

MR. KALK: But, right, that's where -- I just --

MR. WAHL: And I, I, I doubt that that can be done.

But, listen, not until you look, do you know.

MR. CLARK: Well, as I understand it, --

MR. WAHL: You know, I think we need a, I think we need -- I think there should be a, a record --

I tell you what. Let's just continue this hearing sine die. You come back to me with a proposal of what you're going to do to complete the hearing. I don't care what you decide.

MS. SMITH: Okay.

MR. WAHL: Whatever you can agree on. What you can agree on, I'm -- that's, that's jake with me. That -- that's the deal.

On the other hand, if there's some disagreement that -- you agree that there is

something further we can do, but there's some disagreement about how it can be done, then I can make that decision and then we can do whatever I decide. Okay?

MS. SMITH: All right.

MR. WAHL: That's a plan.

The hearing is, for the record, continued sine die.

(Whereupon, the proceedings were adjourned at 9:12 o'clock p.m.)

REPORTER'S CERTIFICATE

I, Joy Filipski, a general shorthand (Stenograph) reporter, 600 DeMers Avenue, Suite 300, Grand Forks, North Dakota, do hereby certify that the foregoing 562 pages of typewritten material constitutes a full, true and correct transcript of my original Stenograph notes, as they purport to contain, of the transcript of the proceedings reported by me at the time and place hereinbefore mentioned.

Joy Filipski

Dated this day of ,2011.

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