

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

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

TRANSCRIPT OF  
HEARING

Taken At  
Memorial Hall  
805 West Main Avenue  
Washburn, North Dakota  
February 22, 2012

BEFORE ALLEN C. HOBERG  
-- ADMINISTRATIVE LAW JUDGE --

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COMMISSIONERS PRESENT:

COMMISSIONER TONY CLARK, Chairman  
COMMISSIONER KEVIN CRAMER  
COMMISSIONER BRIAN P. KALK

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FOR THE APPLICANT,  
MINNKOTA POWER COOP,  
INC.

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Assistant Attorney General  
Office of Attorney General  
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Bismarck, North Dakota 58501

FOR THE NORTH DAKOTA  
PUBLIC SERVICE  
COMMISSION.

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ALSO PRESENT:

MR. JERRY LEIN, Public Service Commission  
Staff

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1           (The following proceedings were had and  
2 made of record herein, commencing at 9:05 a.m.,  
3 Wednesday, the 22nd day of February, 2012:)

4           JUDGE HOBERG: All right. For the record,  
5 it's just a little bit after 9 a.m. on February 22,  
6 2012. We're in the Memorial Hall in Washburn,  
7 North Dakota, for the administrative hearing In the  
8 Matter of the Siting Application of Minnkota Power  
9 Cooperative, Inc.

10           My name is Allen Hoberg. I'm the  
11 designated hearing officer for this matter today.  
12 I'm with the Office of Administrative Hearings.

13           We'll have the parties state their  
14 appearances -- the party, I guess, for the record.  
15 Ms. Smith, please.

16           MS. SMITH: Mollie Smith from Fredrikson &  
17 Byron. And with me is Gerad Paul from Minnkota.

18           JUDGE HOBERG: Was that Gerad or --

19           MS. SMITH: Gerad.

20           JUDGE HOBERG: Gerad.

21           MS. SMITH: G-e-r-a-d.

22           JUDGE HOBERG: Thank you.

23           Mr. Sagsveen, would you state your  
24 appearance, please?

25           MR. SAGSVEEN: Matthew Sagsveen. I'm an

1 Assistant Attorney General here on behalf of the  
2 Public Service Commission. And to my left is Jerry  
3 Lein, who on occasion may also speak on the Public  
4 Service Commission's behalf.

5 JUDGE HOBERG: And you're not putting on a  
6 case today; correct?

7 MR. SAGSVEEN: That's correct.

8 JUDGE HOBERG: Any intervenors? I don't  
9 see any in the record.

10 MR. SAGSVEEN: I have not been notified of  
11 any intervenors.

12 JUDGE HOBERG: Thank you. And, of course,  
13 to my left are the -- two of the members of the  
14 Public Service Commission, Commissioner Kevin  
15 Cramer and Commissioner Brian Kalk. Commissioner  
16 Tony Clark is unavoidably detained. I understand  
17 he'll be here a little bit later, but we do have a  
18 quorum today, so we'll proceed anyway. And I'll --  
19 we'll have comments from the commissioners shortly  
20 after I talk about the public participation and  
21 give a brief background.

22 The Commission certainly encourages public  
23 participation in hearings, public input. If I  
24 could, we're going to pass around a sign-up sheet  
25 shortly. Mr. Lein, I believe, is going to do that.

1           But can I get an indication from those of  
2 you who may wish to participate by presenting  
3 information to the Commission today either for or  
4 against or neutral to the application? If I could  
5 have a show of hands, please.

6           One, possibly two or three, four. Okay.  
7 There's going to be a few of you. We'll talk a  
8 little bit later about when that's going to occur  
9 and how that's going to occur.

10           But on the sign-up sheet I think,  
11 Mr. Lein, there's probably a spot to indicate  
12 whether they're going to give testimony or not?

13           MR. LEIN: (Nods head.)

14           JUDGE HOBERG: Mark "yes" if you're going  
15 to give testimony at that -- at that spot.

16           Basically, as some background, on  
17 September 7, 2011, the Commission issued Corridor  
18 Certificate Number 121 to Minnkota Power  
19 Cooperative designating a transmission facility  
20 corridor for approximately 260 miles of  
21 transmission line and associated facilities to be  
22 constructed from Center -- from the Center  
23 substation near Center, North Dakota, to the  
24 Prairie substation near Grand Forks, North Dakota.

25           On December 2 of last year, Minnkota filed

1 applications for a modification to the designated  
2 corridor, a waiver of procedures and time  
3 schedules, and a transmission facility route to be  
4 designated within the modified corridor as was  
5 shown on an attached map.

6 Minnkota has since determined that an  
7 adjustment to one of the requested corridor  
8 modifications is required as well as for minor  
9 right-of-way adjustments.

10 As part of the application, Minnkota  
11 requests the Commission waive requirements under  
12 North Dakota Century Code Chapter 49-22 that  
13 separate hearings be held concerning the waiver  
14 request, the corridor modification and the route  
15 permit.

16 Besides today's hearing, public hearings  
17 will be held on this application in Grand Forks on  
18 February 21 and in Carrington -- I'm sorry,  
19 February 27, and in Carrington on March 1.

20 The issues for all three of these  
21 hearings, as stated in the notice, are as follows:

22 Will the location, construction and  
23 operation of the proposed facilities produce  
24 minimal adverse effects on the environment and upon  
25 the welfare of the citizens of North Dakota?

1           Secondly, are the proposed facilities  
2 compatible with the environmental preservation and  
3 the efficient use of resources?

4           And, third, will the proposed facility  
5 locations minimize adverse human and environmental  
6 impact while ensuring continuing system reliability  
7 and integrity and ensuring that energy needs are  
8 met and fulfilled in an orderly and timely fashion?

9           At this time I'll call on the  
10 commissioners for their opening comments. We'll  
11 start with you, Commissioner Cramer, please.

12           COMMISSIONER CRAMER: Thank you, Judge,  
13 and thanks all of you for being here. It's very  
14 familiar looking.

15           As the judge pointed out, the Certificate  
16 of Corridor Compatibility has been issued as a  
17 result of the hearings that we held in Carrington,  
18 Washburn and I guess it was -- at that time it was  
19 not Grand Forks, but in Grand Forks County at  
20 Northwood.

21           We -- there were some adjustments, some  
22 widening of the corridors, largely as a result of  
23 input presented at these public hearings by the  
24 public. It's why we're here. The reason we have  
25 the hearing in the communities affected is to

1 maximize opportunity for public involvement.

2 This is the route permit. This is  
3 different than the corridor certificate. The  
4 corridor created that wide swath of land, if you  
5 will, that -- in which the route will be sited.

6 Now we'll get real specific and look at  
7 the very specific route, that line that represents  
8 where every pole goes and where the line will be  
9 strung.

10 So we do our jobs best when you help us do  
11 it. It's why we're here. As I -- and as you'll  
12 hear, no doubt, through several admonitions today,  
13 we want to hear from you. It's why we're here.

14 So if after you listen to the case made by  
15 the company and say you've decided -- at one point  
16 you thought you weren't going to testify but you  
17 heard something that makes you want to testify, if  
18 you hear something from a neighbor or another  
19 landowner or an interested party that sparks  
20 something, just know that we won't leave here until  
21 you've had your chance and exercise it.

22 But you should also know that after you  
23 leave here and after we leave here, we no longer  
24 can accept your testimony. I suppose you could  
25 come to Carrington or to Grand Forks when the case

1 is reopened, but this is really your chance.

2 So over and over again we're going to say  
3 we want to hear from you.

4 Now, our job is not to say yes or no to a  
5 transmission line. Our job is to make sure that it  
6 is -- it is sited in a manner that has minimal  
7 adverse impacts on the cultural and natural  
8 resources of the area and on the welfare of our  
9 citizens.

10 So you help us -- you help us understand  
11 those welfare and those impacts and we'll do our  
12 jobs better.

13 So thank you for being here this morning.  
14 We look forward to a good hearing.

15 JUDGE HOBERG: Thank you, Commissioner  
16 Cramer.

17 Commissioner Kalk, please.

18 COMMISSIONER KALK: Just thank you all for  
19 coming this morning. I know there's a lot going on  
20 out there. It's nine o'clock. Other folks have  
21 other places to be, but it's important enough for  
22 you to be here today. So thanks for coming by.

23 And I think, just to kind of expound a  
24 little bit, that when the Commission makes a  
25 decision, it's always based on a record, and that

1 record is developed through testimony and through  
2 public input.

3 So what you say here today becomes part of  
4 that official record that we can make decisions on.  
5 So if you don't say it here today, it's not part of  
6 that record that we can base our decisions on.

7 So please -- please tell us your thoughts  
8 and concerns about the project and we can take  
9 those into consideration.

10 So thanks for coming today, and I look  
11 forward to a good hearing.

12 JUDGE HOBERG: Thank you, Commissioner  
13 Kalk.

14 I indicated there was three issues. I --  
15 I missed one. I better state the fourth issue for  
16 the record.

17 The fourth issue is: Is it appropriate  
18 for the Commission to approve a thousand-foot-wide  
19 corridor as requested in the application?

20 So those are the four issues the  
21 Commission has to decide.

22 Here's the hearing procedure we're going  
23 to follow today. The applicant, as was indicated,  
24 will present its case first, and Ms. Smith has  
25 indicated she has three witnesses.

1           She'll ask questions of those witnesses.  
2       When she's completed her questioning, then  
3       commission staff through Mr. Sagsveen and Mr. Lein  
4       may have some questions. Following that, the  
5       commissioners may have some questions of the  
6       witnesses. Following that, I'll allow such further  
7       questions as may be necessary.

8           When the applicant has completed the  
9       presentation of her case through her witnesses and  
10      presenting documentary evidence, then I'll call on  
11      the public -- on you for the public testimony, you  
12      out there in the audience.

13           Maybe I could have a show of hands again,  
14      please, of those of you who think you might want to  
15      testify. Probably about four or five people.

16           You'll also come up to the front and give  
17      your testimony. If you have any -- anything that  
18      is in the way of document form that you have to  
19      present, please let me know that and -- and we'll  
20      deal with that too.

21           And there may be questions of you, also,  
22      from the applicant and the commission staff and  
23      the -- and the commissioners.

24           But, again, the commissioners encourage  
25      public testimony. They want to hear your input.

1 And as Commissioner Cramer said, this is your only  
2 chance to do it, unless you come to the other two  
3 hearings. Everything has to be on the record that  
4 the Commission considers.

5 All right. Any questions about the  
6 procedures today? Ms. Smith?

7 MS. SMITH: I have no questions, Your  
8 Honor.

9 JUDGE HOBERG: Mr. Sagsveen, any  
10 questions?

11 MR. SAGSVEEN: No questions, Your Honor.

12 JUDGE HOBERG: There are some preliminary  
13 things we probably need to discuss, but I see  
14 Commissioner Clark is here, and we'll ask him if he  
15 has any opening comments he wishes to make at this  
16 time.

17 COMMISSIONER CLARK: I just -- thanks,  
18 Judge, for your indulgence and everyone else. As  
19 my fellow commissioners may have explained, I had a  
20 bit of a family medical issue. It's nothing  
21 serious, but something we just needed to kind of  
22 juggle child care today.

23 So thanks to everyone for being here. I'm  
24 sure you've already heard a few times, but I also  
25 want to add my admonition that if you have

1 something to say, today is the day to say it.

2 We can, as the judge was saying, only take  
3 into consideration those things that are heard on  
4 the record. So it's a little different than maybe  
5 county commission meetings or legislative meetings  
6 or city council meetings, things like that, where  
7 you may be a little bit more familiar where you can  
8 talk to maybe the legislator or the county  
9 commissioner or something like that outside of the  
10 hearing room and they can take those things into  
11 consideration.

12 In our case we can't. Only the things  
13 that -- in testimony today are things that we can  
14 take into consideration.

15 So just encourage you to testify when the  
16 time comes and look forward to a hearing so that we  
17 can take the information that we'll receive today  
18 and then at some point in the future make a  
19 decision on it.

20 Thanks.

21 JUDGE HOBERG: Thank you, Commissioner  
22 Clark.

23 And the burden of proof today is on the  
24 applicant to show by the greater weight of the  
25 evidence that it's entitled to a grant of the

1 application it is making.

2 The Commission won't be reaching a  
3 decision today. Obviously, we have three more  
4 hearings on that, but the commissioners will  
5 consider the complete record from the three  
6 hearings and then they'll issue findings of fact  
7 and conclusions of law and an order in regard to  
8 this matter.

9 And a party not agreeing with the final  
10 decision of the Commission may have appeal rights  
11 or other rights under the Administrative Agencies  
12 Practice Act, Chapter 28-32 of the Century Code or  
13 under the Commission's rules, North Dakota  
14 Administrative Code, Article 69-02.

15 The evidence we have for the three  
16 hearings that are in this segment of the  
17 applications are the evidence -- will be the  
18 evidence that will be presented at those three  
19 hearings, as well as the evidence from the previous  
20 three hearings as applicable.

21 And that evidence from those previous  
22 three hearings will not be offered again, but it is  
23 of record and, as I understand it, Ms. Smith, the  
24 applicant has the exhibits and a transcript of  
25 those hearings today for reference for anyone who

1 needs to refer to those documents and to that  
2 testimony; is that correct, Ms. Smith?

3 MS. SMITH: Yes, we do, Your Honor.

4 JUDGE HOBERG: Okay. And also as noted in  
5 the notice of hearing, today's hearings will focus  
6 on the portions -- today's hearing will focus on  
7 the portions of the project -- project located in  
8 Burleigh, McLean, Oliver and western Sheridan  
9 Counties.

10 However, the applicant's three witnesses  
11 will be testifying at all three of the scheduled  
12 hearings for this application, and then their  
13 testimony for each of those hearings will focus on  
14 the three different segments; is that correct,  
15 Ms. Smith?

16 MS. SMITH: That is correct.

17 JUDGE HOBERG: Is there any other  
18 preliminary matter you want to discuss before you  
19 begin your presentation?

20 MS. SMITH: Just to clarify with respect  
21 to the exhibits and the testimony that were offered  
22 at the Certificate of Corridor Compatibility  
23 hearings, we would ask that those be considered  
24 part of this record for this proceeding so they do  
25 not have to be repeated and so that could be

1 formally recognized.

2 JUDGE HOBERG: Just for the Commission's  
3 information, we did have a prehearing conference  
4 about that, and -- and I did make a ruling, subject  
5 to the commissioners' approval, of course, that  
6 that would be the case, that the exhibits and the  
7 testimony from the previous hearings would be of  
8 record for these three hearings also.

9 So unless I hear an objection otherwise,  
10 that will be the case, Ms. Smith.

11 MS. SMITH: Thank you, Your Honor.

12 JUDGE HOBERG: All right. Any further  
13 questions or anything else preliminarily before we  
14 begin presentations?

15 MS. SMITH: The only thing I would like to  
16 do is do an overview of the three witnesses  
17 quickly, if that's all right.

18 JUDGE HOBERG: You may.

19 MS. SMITH: We have three witnesses today,  
20 as the judge stated.

21 And the first witness is Mike Hennes, who  
22 is system projects manager for Minnkota and he's  
23 also the project manager for this particular  
24 project.

25 Mr. Hennes will talk about the general

1 factors that played a role in selection of the  
2 proposed project route, the public coordination  
3 that took place during route selection, the  
4 anticipated construction schedule and some of the  
5 notification and coordination efforts that will  
6 take place during construction, and the status of  
7 local permitting.

8 Our second witness will be Duane Phillips.  
9 And Mr. Phillips is with Stanley Consultants, Inc.,  
10 and he is the manager for the project engineering  
11 and right-of-way team.

12 Mr. Phillips will talk about the project  
13 construction and talk about the engineering and  
14 design factors that were considered during  
15 selection of the route.

16 He will also talk about the five corridor  
17 modifications that are being requested by Minnkota  
18 and will provide an overview of the proposed route.

19 Our third and final witness is Brian  
20 Hunker. Mr. Hunker is with HDR Engineering, Inc.,  
21 and he is the environmental consulting project  
22 manager for this project.

23 And Mr. Hunker will testify regarding the  
24 environmental studies that were performed and the  
25 environmental analysis conducted with respect to

1 the proposed project route.

2 JUDGE HOBERG: Thank you, Ms. Smith.

3 Please call your first witness.

4 MS. SMITH: I call Mike Hennes.

5 JUDGE HOBERG: And I need to swear you in  
6 as a witness, Mr. Hennes.

7 And, actually, I need to give an  
8 admonition, which I'll give once unless some  
9 witnesses come in later, but I'm required by law to  
10 tell all witnesses at administrative hearings that  
11 the maximum penalty for perjury in this state is a  
12 Class C felony, punishable by a maximum five years  
13 imprisonment, \$5,000 fine, or both. And, of  
14 course, perjury is essentially not telling the  
15 truth in a hearing such as this.

16 (Witness sworn.)

17 JUDGE HOBERG: Thank you.

18 Ms. Smith, please.

19 **MICHAEL HENNES,**

20 having been first duly sworn, was examined and  
21 testified as follows:

22 **DIRECT EXAMINATION**

23 **BY MS. SMITH:**

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

1 A. Michael Hennes.

2 Q. And you're employed by Minnkota Power  
3 Cooperative, Inc.; is that correct?

4 A. That is correct.

5 Q. And could you state your business address?

6 A. The address is 1822 Mill Road, Grand  
7 Forks, North Dakota.

8 JUDGE HOBERG: Excuse me a second. Are  
9 you all hearing that back there?

10 UNIDENTIFIED SPEAKER: No.

11 JUDGE HOBERG: No?

12 UNIDENTIFIED SPEAKER: No.

13 THE WITNESS: I'll move a little closer  
14 here. Is that better?

15 JUDGE HOBERG: Is that better?

16 UNIDENTIFIED SPEAKER: Yes.

17 JUDGE HOBERG: All right. Okay. Thank  
18 you.

19 Ms. Smith, please.

20 Q. (MS. SMITH CONTINUING) And as I said,  
21 your position with Minnkota is system projects  
22 manager; is that correct?

23 A. That is correct.

24 Q. Could you just briefly discuss your  
25 education and your work history?

1           A.     I received bachelor of science degrees in  
2     electrical engineering and engineering management  
3     from the University of North Dakota.

4           I did begin my career with Basin Electric  
5     in 1975. I then spent ten years with the  
6     University of North Dakota doing aviation weather  
7     research, and then I joined Minnkota Power in 1994  
8     as an electrical engineer.

9           I also have worked as a project engineer  
10    and an engineering manager while at Minnkota.

11          Q.     And your role with respect to the proposed  
12    project is project manager; is that right?

13          A.     That is correct.

14          Q.     And could you tell us what your  
15    responsibilities are as project manager?

16          A.     I have the overall responsibility -- oops.  
17    Excuse me. I thought I'd save time by leaving the  
18    cap off, but --

19                 JUDGE HOBERG: Do we have some -- let's  
20    just take a short recess here while we get that  
21    wiped up.

22                 (Recessed at 9:23 a.m. to 9:24 a.m.)

23                 JUDGE HOBERG: Let's go back on the  
24    record. All right.

25          Q.     (MS. SMITH CONTINUING) I think I had just

1 asked you about your responsibilities as project  
2 manager.

3 A. Yes. I do have overall responsibility for  
4 the budgeting, scheduling and the coordination of  
5 the permitting, the design, the right-of-way  
6 acquisition and the construction of this proposed  
7 project.

8 Q. And could you talk just briefly about the  
9 group of people that makes up the project team for  
10 this project?

11 A. Minnkota is providing team leads for the  
12 engineering and the environmental permitting, the  
13 right-of-way and legal aspects, procurement,  
14 communications and public relations and  
15 construction management.

16 Minnkota has hired the services of  
17 professional engineering consulting firms,  
18 including Stanley Consultants, who are the prime  
19 consultant responsible for project design and  
20 construction management.

21 We also have procured the services of HDR  
22 Engineering, who is overseeing the environmental  
23 and permitting aspects for the project.

24 Q. And then if you'll look at what's been  
25 previously marked as Exhibit A, and it's the large

1 binder in front of you, could you identify that  
2 document for us?

3 A. Yes. This is the copy of the Minnkota's  
4 route permit application and corridor modification  
5 and waiver request for this project, which were  
6 filed with the Commission on December 2, 2011.

7 Q. And were the application and the corridor  
8 modification and waiver request prepared under your  
9 supervision and control?

10 A. Yes, they were.

11 MS. SMITH: I would offer Exhibit A.

12 JUDGE HOBERG: Any objection to A?

13 MR. SAGSVEEN: No, Your Honor.

14 JUDGE HOBERG: We'll admit Exhibit A.

15 Q. (MS. SMITH CONTINUING) And then if you'll  
16 turn to what's been marked as Exhibit B in the  
17 hearing exhibit binder. And, actually, do you -- I  
18 have copies of that, as well, if you need it, if  
19 it's not in that binder.

20 But could you identify Exhibit B for us?

21 A. Let me get my bearing here.

22 Q. I think it's in the white --

23 A. There we go.

24 Q. -- binder. Yeah.

25 A. Yes. This is a copy of the letter and

1 accompanying maps filed with the Commission on  
2 January 20, 2012.

3 MS. SMITH: And I do have copies of that  
4 if you do need a copy. It was previously filed, so  
5 we did not submit that when we prefiled our hearing  
6 exhibits.

7 JUDGE HOBERG: Do you have that,  
8 Ms. Smith, in yours, the original?

9 THE REPORTER: I believe so.

10 JUDGE HOBERG: Okay. Mr. Sagsveen, do you  
11 have that? I don't have it in mine, but --

12 MR. SAGSVEEN: Is there a docket number on  
13 it or --

14 MS. SMITH: I'd have to look at the docket  
15 number. I'll just give you a copy.

16 MR. SAGSVEEN: I think I have it.

17 JUDGE HOBERG: Please continue.

18 COMMISSIONER CRAMER: Is there one more  
19 over there?

20 MS. SMITH: Here's an extra.

21 Q. (MS. SMITH CONTINUING) And could you tell  
22 us what the letter and the maps discuss that are in  
23 Exhibit B?

24 A. The letter discusses the one additional  
25 modification of the proposed modified project

1 corridor, which is in Eddy County, and also  
2 discusses four minor right-of-way alignment  
3 adjustments. Three to accommodate landowner  
4 requests and one to avoid a cultural resource site  
5 located in McLean, Eddy, Wells and Grand Forks  
6 County.

7 The maps illustrate the corridor change  
8 and the alignment adjustments.

9 MS. SMITH: And I would offer Exhibit B.

10 JUDGE HOBERG: Any objection to B,  
11 Mr. Sagsveen?

12 MR. SAGSVEEN: I don't have any  
13 objections.

14 JUDGE HOBERG: Exhibit B is admitted.

15 Q. (MS. SMITH CONTINUING) And the Commission  
16 has heard detailed testimony at the corridor  
17 hearings regarding the need for this project.  
18 Could you just briefly remind us what that need is  
19 again?

20 A. Yes. This project addresses the need to  
21 secure a source to meet Minnkota's long-term energy  
22 supply needs. Minnkota has agreements with  
23 Minnesota Power and Square Butte that allow  
24 Minnkota to increase the base load generation  
25 resources without constructing a new coal-fired

1 plant, and this is accomplished by acquiring  
2 additional output from the existing Young 2 plant.

3 The proposed project provides the means  
4 for transporting that additional base load  
5 generation to Minnkota's service territory.

6 This project also addresses identified  
7 grid reliability issues. The proposed project will  
8 improve the reliability of the grid to serve load  
9 in northeast North Dakota and northwestern  
10 Minnesota.

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

13 A. This project was started in 2009 with a  
14 four-year timeline. Minnkota has moved -- now  
15 moved to a five-year schedule based on revised  
16 anticipated Public Service Commission route permit  
17 issuance in the first quarter of 2012 as a major  
18 milestone.

19 Equipment procurement, manufacture and  
20 delivery have been ongoing for the long-delivery  
21 items with an anticipated start of construction in  
22 the spring of 2012, mid-May and early June. This  
23 leads to an in-service date of the fourth quarter  
24 of 2013 or the end of the year 2013.

25 Q. And could you discuss just briefly the

1 changes in the schedule that occurred since the  
2 Certificate of Corridor Compatibility hearings?

3 A. The schedule presented at the corridor  
4 hearings anticipated a fall 2011 construction  
5 start. The change in the project schedule is  
6 primarily due to delays in the Rural Utilities  
7 Service's environmental consultation with the U.S.  
8 Fish & Wildlife Service regarding the project  
9 Section 7 mitigation plan for minimizing the  
10 project's impact to the whooping crane.

11 Also, additional time was taken to address  
12 the landowner concerns when finalizing the route,  
13 particularly in the areas where the corridor  
14 approved by the Commission was wider than Minnkota  
15 had originally proposed. As a result, the route  
16 permit application was filed later than initially  
17 anticipated.

18 Q. And you just mentioned that part of the  
19 reason for the change in the construction schedule  
20 was due to a delay in the RUS's environmental  
21 consultation with the U.S. Fish & Wildlife Service  
22 regarding the mitigation plan for minimizing  
23 impacts to the whooping crane.

24 Could you explain what you're referring to  
25 in a little bit more detail?

1           A.     The project has recognized the U.S.  
2 Fish & Wildlife Service's recommendations for the  
3 mitigation of the impacts to whooping cranes.  
4 We've had no problem designing in that mitigation  
5 with marking the new line as per the regional  
6 office's guidelines. The challenge was with this  
7 region's additional requirement of marking a  
8 one-for-one existing miles on existing transmission  
9 line.

10                   Minnkota has limited resources within the  
11 whooping crane flight corridor, so identifying  
12 enough miles to meet that one-for-one requirement  
13 was a challenge.

14                   We spent additional time working out a  
15 solution to that, and we are -- negotiated with  
16 local area distribution co-ops to see if they would  
17 host marking or in lieu of marking taking their  
18 overhead distribution lines and burying them on our  
19 behalf.

20                   The U.S. Fish & Wildlife has now indicated  
21 in reviews of draft biological assessment that  
22 burying of distribution lines in lieu of marking an  
23 existing transmission line will meet the  
24 guidelines.

25                   As the RUS is the lead federal agency,

1 they make the final determination as to this  
2 mitigation plan and they're reviewing it now.

3 Q. And I'll direct you to what's been  
4 previously marked as Exhibit C, and that's also in  
5 the white binder. Can you tell us what that is?

6 A. Yes. This is a map of the proposed  
7 project route within the proposed modified project  
8 corridor.

9 Q. And does this map accurately reflect the  
10 project route within the proposed corridor and  
11 meaning the final project route?

12 A. Yes, it does. And I also point out that  
13 it's up on the -- up on the easel for the public to  
14 see as well.

15 MS. SMITH: Yes. Thank you. It is on  
16 the -- on the board as well.

17 I would offer Exhibit C.

18 JUDGE HOBERG: Any objection to C?

19 MR. SAGSVEEN: No, Your Honor.

20 JUDGE HOBERG: Exhibit C is admitted.

21 Q. (MS. SMITH CONTINUING) And what approach  
22 did Minnkota take with respect to selecting this  
23 proposed project route that's depicted in  
24 Exhibit C?

25 A. Once the corridor was approved, route

1 selection was influenced mainly by landowner  
2 discussions during the right-of-way procurement  
3 process.

4 Landowner requests to move the line within  
5 their own property boundaries were evaluated from a  
6 technical and economic basis. Most of these  
7 requests for route modifications were accommodated.

8 For requests to reroute the line off of a  
9 landowner's property, every effort was made to  
10 contact neighboring landowners for input on  
11 suggested reroute.

12 In the majority of these instances,  
13 neighboring landowners did reject the suggested  
14 reroute and the route remained in the location  
15 originally proposed.

16 Q. And what were some of the factors that  
17 Minnkota took into account when selecting the  
18 project route?

19 A. The input from landowners and the  
20 avoidance of wetlands, archeological and  
21 environmentally sensitive areas were the primary  
22 considerations in the final route selection.

23 Existing wind leases also played a factor.  
24 The proposed route is following the recommendations  
25 of the potential developers in these areas.

1           Q.     And how did Minnkota involve landowners  
2 and agencies when selecting the project route?

3           A.     Minnkota's route selection process focused  
4 on engaging in one-on-one discussions with the  
5 landowners.

6                     But we also did hold several meetings that  
7 were organized to talk to groups of landowners in  
8 select areas to hear their common concerns.

9                     Meetings and discussions with agency and  
10 advocacy groups were held together for input on the  
11 final route alignment.  These groups include the  
12 Grand Forks County Prairie Partners, the Audubon  
13 Dakota, the North Dakota Department of Trust Lands,  
14 Western Area Power Administration, Grand Forks  
15 International Airport, the UND School of Aviation  
16 and also several wind developers active in the  
17 area, OTESCO and Infinity.

18                    We also used ongoing project-related  
19 outreach methods, including our project newsletter  
20 direct mailings and updates to our project web  
21 site.

22           Q.     And Mr. Phillips will discuss the proposed  
23 corridor modifications in more detail, but could  
24 you just briefly explain why Minnkota is requesting  
25 modifications to the corridor that was approved by

1 the Commission?

2 A. Each of the corridor modifications is  
3 requested in order to accommodate a routing request  
4 made by landowners, agencies and other members of  
5 the public during the public hearings on Minnkota's  
6 Certificate of Corridor Compatibility application  
7 or during the route selection process that took  
8 place after those hearings.

9 As Mr. Phillips will discuss during his  
10 testimony and as the maps provided with the  
11 corridor modification and waiver request  
12 demonstrate, all these modifications are relatively  
13 minor and were required where the 150-foot-wide  
14 route was moved just outside the previously defined  
15 corridor area.

16 Q. And what is the current status of  
17 right-of-way acquisition for the project?

18 A. The right-of-way team has negotiated to  
19 date options or easements for 73 percent of the  
20 project's 250-mile-long proposed route.

21 In 6 of the 11 counties crossed by the  
22 project, negotiated options account for well over  
23 80 percent of the required line miles in those  
24 particular counties, and two of the counties are at  
25 100 percent landowner agreement.

1           Q.     And talking just a little bit about  
2 project construction, what is Minnkota's plan for  
3 project construction as far as where do you plan to  
4 start construction and where do you plan to end  
5 construction?

6           A.     During the year 2012, the primary  
7 contractor will begin construction on the eastern  
8 line segment between Cooperstown and Grand Forks.

9                     The tree clearing and fencing contractor  
10 will also start in this section, but will most  
11 likely also be working on the western portion of  
12 the project in 2012.

13                    There will be off-season work at the  
14 Missouri River crossing and other environmentally  
15 sensitive areas.

16                    The primary contractors will move into the  
17 western half of the project in the spring of 2013  
18 with the project completion anticipated again at  
19 the end of 2013.

20           Q.     And throughout this construction process,  
21 how does Minnkota plan to keep landowners and local  
22 authorities informed?

23           A.     Project personnel will notify landowners  
24 prior to work being conducted on their property and  
25 will be available on an on-call basis to manage any

1 issues or concerns that may arise.

2 We also will continue our project  
3 newsletters with specific construction lead-in as  
4 to where we'll be working in the near future.

5 An interactive project web site is also  
6 being developed to make real-time construction maps  
7 and information available to any interested party  
8 that may choose to log on and look at that.

9 The project also continues to maintain its  
10 toll-free hotline for dialogue or continuance of  
11 discussion, issues of concerns that may be raised  
12 to notify Minnkota of that. And we also will have  
13 direct e-mail contact with landowners who sign up  
14 for this service.

15 Q. And with respect to e-mail sign-up, I  
16 believe that there is a sheet available today if  
17 landowners do want to sign up for that service; is  
18 that right?

19 A. That is correct. We are asking that if  
20 you volunteer your e-mail, that we will use it to  
21 notify you of construction along the route.

22 Q. Okay. And how will Minnkota coordinate  
23 with utilities and road authorities along the  
24 proposed project route?

25 A. The construction manager will provide

1 advanced planning resources to look ahead and make  
2 the necessary utility One Calls prior to any  
3 augering for the foundation excavations.

4 We'll also contact road authorities and  
5 they'll have the opportunity to review the traffic  
6 plans proposed in their areas prior to the start of  
7 construction.

8 Specific communication requirements will  
9 be accommodated, along with the proposed public  
10 notifications plan via the newsletters, the media,  
11 web site, hotline, e-mails and public  
12 announcements.

13 And, again, the interactive web site is  
14 being developed to help make real-time construction  
15 maps and information available to the public.

16 Q. And what steps have or will Minnkota take  
17 in order to be prepared for any emergency  
18 situations that may arise either during or after  
19 construction?

20 A. The primary contractors are required to  
21 provide field safety officers. The construction  
22 manager will provide the field safety officers with  
23 the contact information and response areas for the  
24 local emergency responders along the project route.

25 Minnkota will develop an emergency

1       communications plan with the local EMS,  
2       firefighter, law enforcement and the local  
3       officials.

4               Procedures for notifying landowners of  
5       emergency situations are in place for all of  
6       Minnkota's 3,000 miles of transmission line which  
7       are in service, and these procedures will also be  
8       used for this project once it's in service.

9               Q.     And what steps will Minnkota take to  
10       ensure that the project is constructed in  
11       compliance with all applicable permits and in a  
12       manner that minimizes environmental impacts?

13              A.     Minnkota will retain the services of an  
14       environmental inspector assigned to the project.  
15       This inspector will be responsible for assisting  
16       and training of construction personnel and  
17       overseeing the correct placement of exclusion  
18       fencing or marking for identified environmentally  
19       restricted areas such as wetlands, streams.

20              And we'll also be monitoring construction  
21       for compliance with environmental conditions and  
22       the requirements of our programmatic agreement.  
23       And we also will be monitoring site restoration  
24       following the completion of construction  
25       activities.

1 MS. SMITH: And I'm going to hand out an  
2 exhibit. We had in our exhibit book set aside  
3 Exhibit D for the certification, and we're able to  
4 have that here today but not when we filed our  
5 exhibits. So I'll hand that out now.

6 Q. (MS. SMITH CONTINUING) And, Mr. Hennes,  
7 if you'll look at Exhibit D, is that the  
8 certification from the Commission that was executed  
9 by Minnkota?

10 A. Yes, it is.

11 Q. And was the certification signed by  
12 someone with the authority to bind Minnkota with  
13 respect to adhering to the certifications  
14 provisions?

15 A. Yes. It was signed by Mr. Wally Lang, the  
16 vice president of transmission for Minnkota.

17 Q. And the certification requires compliance  
18 with the Commission's tree and shrub mitigation  
19 specifications, and the paragraph eight of the tree  
20 and shrub mitigation specifications states that the  
21 width of clear-cuts through windbreaks,  
22 shelterbelts and all other wooded areas shall be  
23 limited to 50 feet or less unless otherwise  
24 approved by the Commission.

25 Is Minnkota requesting that the Commission

1 approve a different clear-cut width for the  
2 proposed project?

3 A. Yes, we are. With respect to the width of  
4 clear-cuts through windbreaks, shelterbelts and all  
5 other wooded areas, Minnkota requests the  
6 Commission to authorize it to clear-cut the entire  
7 150-foot-wide right-of-way, if necessary.

8 Q. And when would it be necessary for  
9 Minnkota to clear-cut the entire 150-foot-wide  
10 right-of-way?

11 A. To meet the North American Electric  
12 Reliability Commission, or NERC, standards for  
13 transmission line reliability, any tree that may  
14 inadvertently come into contact with a high-voltage  
15 transmission line is required to be identified and  
16 removed. This may also require the clearing of the  
17 entire 150-foot-wide right-of-way in heavily wooded  
18 areas.

19 Also, extremely tall trees in poor health  
20 that reside just outside the 150-foot-wide  
21 right-of-way may also need to be selectively  
22 removed to meet NERC requirements.

23 MS. SMITH: And I would offer Exhibit D  
24 with one qualification. We were not provided with  
25 the -- I don't believe that the tree and shrub

1 mitigation specifications are attached. So we just  
2 need to have a copy of those that we add to the  
3 exhibit.

4 JUDGE HOBERG: Mr. Sagsveen?

5 MR. SAGSVEEN: I -- I don't have any  
6 objection to that. I thought that I had e-mailed  
7 those to you.

8 MS. SMITH: Yeah, they weren't provided.

9 MR. SAGSVEEN: Hmm. Okay. Yeah, we  
10 can --

11 MS. SMITH: And I didn't realize it until  
12 today.

13 MR. SAGSVEEN: So what are you -- what  
14 exactly are you asking with respect to those, then?

15 MS. SMITH: At the next hearing that we  
16 have a copy of the tree and shrub mitigation  
17 specifications that are added to Exhibit D and that  
18 will complete the exhibit.

19 MR. SAGSVEEN: Okay.

20 JUDGE HOBERG: Okay.

21 MR. SAGSVEEN: I have no objection.

22 JUDGE HOBERG: No objection with that  
23 condition?

24 MR. SAGSVEEN: And -- okay.

25 JUDGE HOBERG: All right. Exhibit D is

1 admitted with that condition that that occur at the  
2 next -- on or before the next hearing.

3 MS. SMITH: All right. Thank you.

4 Q. (MS. SMITH CONTINUING) And we'll just  
5 talk briefly about local permitting. Are there any  
6 county or township land use permits that are  
7 required for this project?

8 A. Yes. Most counties and some individual  
9 townships require conditional use permits for this  
10 project.

11 Q. And could you tell us which counties or  
12 townships require those conditional use permits?

13 A. In regards to the counties, all counties  
14 require a conditional use permit or approval for  
15 the project, with the exception of Burleigh and  
16 Steele Counties.

17 With regards to the townships, Painted  
18 Woods Township and Wilson Township provide their  
19 own conditional use permit within Burleigh County.  
20 Addie Township in Griggs County. Sharon Township,  
21 Franklin Township are self-represented in Steele  
22 County. And Fairfield, Logan and Loretta Townships  
23 in Grand Forks County have their own conditional  
24 use requirements.

25 Q. And what is the status of obtaining those

1 conditional use permits?

2 A. Again, in regards to the counties, Eddy  
3 County had no formal process, but county  
4 commissioners issued a letter authorizing approval.  
5 All other counties have issued or conditionally  
6 issued a conditional use permit for the project.  
7 And, again, in regards to the townships, all have  
8 issued or conditionally issued a permit.

9 Q. Based on the studies and the analyses that  
10 have been conducted and on the testimony you have  
11 presented today, what are the conclusions that  
12 Minnkota has reached regarding the proposed project  
13 and, more specifically, the proposed route?

14 A. Minnkota has previously provided detailed  
15 testimony on the proposed project's need and  
16 importance to the region's electrical transmission  
17 infrastructure.

18 In the three years of preparatory work  
19 leading to today's route permit hearings, the need  
20 to make reliability and load-serving improvements  
21 to secure the lowest-cost solution to providing  
22 future generations with a dependable, electrical  
23 supply has not diminished.

24 The proposed route is a result of  
25 Minnkota's extensive efforts to accommodate

1 landowners and other stakeholders' requests when  
2 selecting a route within the approved corridor  
3 while also selecting a route that presents the  
4 least overall impact.

5 MS. SMITH: I have no further questions.

6 JUDGE HOBERG: Thank you, Ms. Smith.

7 Mr. Sagsveen, do you have any questions?

8 MR. SAGSVEEN: I don't have any questions,  
9 Your Honor.

10 JUDGE HOBERG: Mr. Lein, either?

11 MR. LEIN: No questions.

12 JUDGE HOBERG: No questions? Thank you.  
13 Commissioner Clark, please.

14 **EXAMINATION**

15 **BY COMMISSIONER CLARK:**

16 Q. Just very quickly, could you go over again  
17 this U.S. Fish & Wildlife Service accommodation  
18 that you're needing to make. I -- I'm not sure  
19 that I caught all of the one-to-one replacement.

20 COMMISSIONER CRAMER: Either that or we  
21 caught it --

22 COMMISSIONER CLARK: Either that or --

23 COMMISSIONER CRAMER: -- but are stunned,  
24 but --

25 COMMISSIONER CLARK: Right.

1           THE WITNESS: All right. The Region 6  
2 office, which represents the Dakotas, has an  
3 additional requirement for new transmission lines  
4 that require for every mile that you mark a new  
5 project within one mile of suitable wetland habitat  
6 within the 95 percent siting corridor for the  
7 whooping crane, that you are required to mark on a  
8 one-for-one basis additional miles on another  
9 existing transmission line.

10           Q. (COMMISSIONER CLARK CONTINUING) Okay. So  
11 just so I understand it, if the proposed new  
12 project is within one mile of suitable habitat  
13 within the 95 percent corridor --

14           A. Yes.

15           Q. -- then you have to find on a two-to-one  
16 basis other miles somewhere else to mark, even if  
17 they're outside the 95 percent?

18           A. No. We have to find other transmission  
19 facilities within the 95 percent corridor and mark.

20           Q. Okay.

21           A. In our specific case, we have 120 miles of  
22 transmission line within suitable -- one-mile  
23 suitable habitat.

24           Q. I guess it's almost all -- within the  
25 95 percent corridor, it's almost all suitable

1 habitat?

2 A. Right.

3 Q. It's just --

4 A. Right.

5 Q. -- the --

6 A. So we have 120 miles of existing  
7 transmission line to identify that we have to  
8 provide additional bird marking on, and that has  
9 been a challenge because of the limited resources  
10 that we have.

11 And the one transmission line that meets  
12 that requirement is -- you know, is technically  
13 challenged to accept additional marking.

14 Q. Because there just aren't that many  
15 transmission lines that go through this --

16 A. No.

17 Q. -- this area?

18 A. Well, it's -- it's --

19 Q. How big a geographic area are we talking  
20 about that they --

21 A. It's between --

22 Q. -- make you identify another line?

23 A. Between basically the Missouri River and  
24 Jamestown would be the borders on the east side of  
25 the corridor, so the Jamestown would be about the

1 95 percent siting corridor cutoff, so --

2 Q. Okay. So you have to mark the 120 miles  
3 of your own line and then 120 miles somewhere else?

4 A. That's correct.

5 Q. Okay. And then so what they've asked you  
6 to do, then, is to find as much transmission as you  
7 can and then start looking at distribution beyond  
8 that; is that --

9 A. That's correct. And -- and no other  
10 transmission provider or distribution would accept  
11 marking on our behalf of an existing transmission  
12 line because you take on additional liability.

13 In our region we have icing impacts, and  
14 the bird flight divertor adds a footprint to the  
15 transmission line. It accumulates additional ice.  
16 So unless your structure is specifically designed  
17 to handle additional ice load, you're increasing  
18 the liability and you're increasing the risk to the  
19 public by marking.

20 So --

21 Q. Right.

22 A. -- the requirement to mark existing  
23 transmission lines puts a challenge because you  
24 first have to analyze the existing lines to see if  
25 they're technically capable of adding or handling

1 that additional ice load. And in our case we had  
2 to eliminate several miles of our existing  
3 transmission line.

4 So the only way to meet the U.S. Fish &  
5 Wildlife guidelines was to have this conversation  
6 with local distribution co-ops about marking their  
7 lines or undergrounding. And, again, none of them  
8 agreed to mark their lines because of the  
9 ice-loading liability.

10 So we have agreements that identified  
11 200 miles of distribution line that would be  
12 suitable for undergrounding that are within the  
13 95 percent siting corridor. So within that  
14 200 miles of candidate distribution lines, we need  
15 to underground approximately 31 miles of those  
16 lines.

17 And that took us six months to, you know,  
18 make those, you know, conversations and agreements  
19 to -- with the local distribution co-ops to put  
20 that plan into place in order for us to say that we  
21 can meet the U.S. Fish & Wildlife guidelines.

22 Q. Sure.

23 A. It's an extreme burden.

24 Q. The -- doesn't undergrounding distribution  
25 create reliability problems of its -- of its own?

1 I mean you may save them from wind and ice, but if  
2 a fault does occur, one thing I've heard, it's much  
3 more difficult to take care of that fault. If it  
4 does occur, it's harder to locate. You have to dig  
5 up earth. I mean it extends an outage  
6 significantly.

7 A. That's the trade-off. I think that was  
8 the -- probably 20, 30 years ago that was the main  
9 concern. I think with the reliability in the cable  
10 manufacturers and improvements in the cable that's  
11 less of a case today. That I think more and more  
12 cooperatives are finding that, you know, going to  
13 underground is equivalent to the, you know,  
14 maintenance for overhead.

15 Q. How much additional cost did all this add  
16 to the project, if you're at liberty to say?

17 A. To date Minnkota will be spending about  
18 \$3.8 million on -- to meet the U.S. Fish & Wildlife  
19 guidelines.

20 COMMISSIONER CLARK: Okay. Thank you.  
21 That's all I have.

22 JUDGE HOBERG: Thank you, Commissioner  
23 Clark.

24 Commissioner Cramer, please.

25

**EXAMINATION**

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**BY COMMISSIONER CRAMER:**

Q. You do realize, of course, when you describe all of this stuff, it almost sounds like you're making it up, it's so ridiculous, except that we do know who you're talking about.

I just want to clarify the tree and shrub mitigation issue, the evidence issue, if I could. Is what's missing is just our guidelines? Because as I look at Exhibit N, which is the plan, it reads just like our guidelines. So just so I'm clear, that's all that's missing?

MS. SMITH: If you do look at that tree and shrub mitigation plan, there is a copy of whatever the last version that somebody had of the --

COMMISSIONER CRAMER: Okay.

MS. SMITH: -- tree and shrub mitigation plans are provided in that. They're just not attached to the certification.

COMMISSIONER CRAMER: Got it. Okay. Very good. I have nothing else. Oh, you know, let me add -- I do have one question. I'm sorry, Your Honor.

Q. (COMMISSIONER CRAMER CONTINUING) You

1 know, when I hear you talk about all of the  
2 accommodations that you've tried to make and some  
3 you were able to make for landowners -- and we have  
4 a room full of landowners -- I suspect they're  
5 mostly landowners. I mean what are we going to  
6 hear -- what could you tell us right now about what  
7 we might hear later today and how Minnkota might  
8 have dealt with it, if that's -- I know that's  
9 pretty open-ended, but if you could help me  
10 understand that.

11 A. Well, I think that, you know, the  
12 percentage of right-of-way that we have secured,  
13 Minnkota was also faced with the project timeline  
14 extension that some of our original options expired  
15 and we were successful in -- in renegotiating those  
16 options for an option extension on a hundred  
17 percent of the landowners that that affected. So  
18 we use that as a pretty good gauge that we do have  
19 pretty good landowner, you know, acceptance of our  
20 project.

21 I think, you know, a majority of  
22 landowners are -- that we still have issues with  
23 are those landowners that we've reviewed their  
24 request to move the transmission line and weren't  
25 able to accommodate that.

1           We -- you know, for technical reasons or  
2 sometimes the total cost benefit of looking at  
3 that, the move does add additional impact to others  
4 when we're asked to move -- to handle a particular  
5 landowner. So those issues are probably still  
6 unresolved.

7           We have 16 percent of our landowners that  
8 basically, you know, from the very beginning of the  
9 project have denied us access for survey and  
10 basically have been opposed to the project, you  
11 know, altogether.

12           So that's a gamut of -- you know, some of  
13 it's concerns about the amount of payment. In a  
14 particular county our land basis value is a concern  
15 to some of the landowners as well.

16           But I think the overall percentage of  
17 right-of-way that is -- has been negotiated, we do  
18 have some landowners that we have accommodated and  
19 met their requirements and we try.

20           Like I said, we -- we do look at every  
21 request and sometimes it means going out and  
22 canvassing the neighborhood and seeing what the  
23 impact would be on other people.

24           So our decisions are based on -- on kind  
25 of the overall feedback for an area as to what has

1 the most likelihood of being successful.

2 Q. And I can appreciate that and -- but one  
3 of the things I'm sitting here thinking about is as  
4 you talk about cost -- and I'm talking about now  
5 economic burden for the company as opposed to the  
6 cost to a neighbor. You know, that's a little  
7 harder to mitigate, but when it comes to -- when I  
8 think about a \$3.8 million cost increase to  
9 accommodate birds, I get a little concerned that  
10 there's not more consideration for, you know,  
11 burying some costs to help people. So I'm just  
12 sort of anticipating what we're going to be hearing  
13 later today and wanting to get my mind wrapped  
14 around that.

15 A. And we appreciate that and, again,  
16 Minnkota has, you know, taken on some additional  
17 cost in some of the reroutes that Mr. Phillips will  
18 talk about. They have added line length and have  
19 added additional corner structures, too, and those  
20 are at cost.

21 So, again, not every request was denied.  
22 We did every effort to make a case on an individual  
23 basis, a case-by-case basis as to what made --  
24 again, you know, the overall goal is to -- is to  
25 cause the least overall impact for the project.



1 you will -- if you don't like what the Fish &  
2 Wildlife Service is telling you, can you then go  
3 through USDA or someone and sit down at a table  
4 somewhere in D.C. and say, "This is ridiculous"? I  
5 mean I'm serious because this is -- you -- we don't  
6 regulate you as a commission, but if this was Xcel  
7 or Otter Tail or MDU in front of us right now, I  
8 would be asking a lot more pointed questions.

9 A. The Rural Utilities Service is the lead  
10 federal agency, so the decision of whether we've  
11 met the Section 7, you know, guidelines for the  
12 endangered species is ultimately their decision.  
13 They are in consultation with U.S. Fish & Wildlife.

14 So this basically has been -- we've been  
15 in the middle of two, you know, federal agencies  
16 with differing viewpoints and that has been a  
17 difficult position for us.

18 But we've basically been looking at what  
19 do we need to do to make this project successful to  
20 work within the region that has jurisdiction, and  
21 certainly our -- other co-ops in other regions  
22 aren't burdened with this same request, but --

23 Q. But what about the -- the corridor runs  
24 from Texas to Canada. I mean so I would think it  
25 would be similar problems throughout the whole

1 area.

2 A. It is. Yes.

3 Q. So but what's the approach that -- I mean  
4 you're closer to the problem than I am right now,  
5 but is RUS just going to say "okay" to the Fish &  
6 Wildlife Service from here on in? Is this a  
7 precedent that will be set that will then bleed  
8 over to other projects?

9 A. There's been a couple other projects prior  
10 to ours that kind of started this in the region and  
11 it's still carrying on. Yes. I think the Western  
12 Area Power Administration has, you know, objections  
13 to this requirement as well, and they chose to  
14 handle it in a different way than the Rural  
15 Utilities Service chose to handle it, so --

16 Q. Fair enough. I wonder if there's  
17 something that -- maybe a separate discussion we  
18 could have, a broader view, or what the Commission  
19 could do with some of these agencies to discuss  
20 with them.

21 COMMISSIONER KALK: The -- I think that  
22 was really about it. Was there -- I guess this is  
23 maybe a general question for Mollie, too, is  
24 that -- so the initial testimony was given by --  
25 well, let's say Mike.

1           If there was something that has  
2           drastically changed, I would assume you would have  
3           already highlighted it in your additional comments  
4           now?

5           MS. SMITH: Yes. Either it would have  
6           been covered in the route permit application itself  
7           or it would be covered in the testimony.

8           COMMISSIONER KALK: So we can assume that  
9           everything you said before with the number of  
10          people and all those things, everything is still  
11          the same?

12          MS. SMITH: Well, I guess as far as --  
13          this is a process, so some of the, you know,  
14          numbers things as far as negotiating easements  
15          obviously has --

16          COMMISSIONER KALK: Sure.

17          MS. SMITH: -- changed and he's noted  
18          that. I would say for the most part, yes. If it's  
19          a specific thing you're wondering about, we could  
20          address that specifically.

21          COMMISSIONER KALK: Okay. Thank you.

22          JUDGE HOBERG: Thank you, Commissioner  
23          Kalk.

24          Any further questions, Commissioners?  
25          Thank you.

1           Ms. Smith, any additional questions of  
2 Mr. Hennes?

3           MS. SMITH: No, Your Honor.

4           JUDGE HOBERG: Any further questions?

5           MR. SAGSVEEN: No, Your Honor.

6           JUDGE HOBERG: Thank you, Mr. Hennes.

7           THE WITNESS: Thank you.

8           JUDGE HOBERG: Next witness, please.

9           MS. SMITH: I would call Duane Phillips.

10          JUDGE HOBERG: Mr. Phillips, did you hear  
11 the admonition I gave earlier in regard to perjury?

12          MR. PHILLIPS: Yes, I did, Your Honor.

13          (Witness sworn.)

14          JUDGE HOBERG: Thank you.

15          Ms. Smith, please.

16                               **DUANE PHILLIPS,**

17 having been first duly sworn, was examined and  
18 testified as follows:

19   **DIRECT EXAMINATION**

20 **BY MS. SMITH:**

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

23           A.    Duane Phillips.

24           Q.    And you're employed by whom?

25           A.    Stanley Consultants.

1 Q. And what is your business address?

2 A. My business address is 8000 South Chester  
3 Street, Suite 500, and that's in Centennial,  
4 Colorado.

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

7 A. Yes. My educational background is in  
8 electrical engineering and nuclear engineering.  
9 I've got 32 years of experience in the energy  
10 business, including generation, substation,  
11 transmission and distribution. I've got over  
12 24 years of project and construction experience  
13 designing, building and operating high-voltage  
14 power delivery systems. And I've been a project  
15 manager for approximately 15 high-voltage  
16 transmission projects of about 750 miles.

17 Q. And what's your role with respect to this  
18 project?

19 A. My role with this project is the project  
20 manager or -- or the lead of -- of the engineering  
21 team, which includes system studies, project  
22 conceptual work, corridor selection process, the  
23 preliminary design, aerial and ground survey,  
24 detailed electrical study work -- excuse me --  
25 technical field study work, the right-of-way

1 process and acquisition, and then final detailed  
2 engineering and design and will also include  
3 construction management and support.

4 Q. And have there been any changes in the  
5 proposed project right-of-way width, design or  
6 associated facilities since the public hearings on  
7 Minnkota's Certificate of Corridor Compatibility  
8 application?

9 A. There have been no changes other than the  
10 route centerline selection and determining of the  
11 structure locations along the route centerline.

12 Q. And we'll talk a bit about construction of  
13 the project. Could you first discuss for us the  
14 personnel that will be involved in project  
15 construction?

16 A. Yes. The major personnel involved begins  
17 with the construction manager who will manage  
18 construction and field activities during the  
19 construction for Minnkota.

20 There's also a survey team that will be  
21 out there and they'll provide the actual structure  
22 location, staking. They'll also mark the  
23 right-of-way boundaries and they'll also mark  
24 sensitive areas that need to be avoided during  
25 construction.

1           There will be a tree clearing and fencing  
2 contractor that will clear areas along the  
3 right-of-way, replace or remove fencing if it's  
4 necessary and install gates and fencing to provide  
5 right-of-way access for construction and  
6 maintenance.

7           There will be a foundation contractor that  
8 will install the drilled -- drilled pier concrete  
9 foundations for each one of the structures.

10           There will be a line contractor that  
11 actually installs the structures and builds the  
12 line, puts the wire up.

13           And then field engineers, an environmental  
14 inspector and construction inspectors that will  
15 monitor the construction and ensure that the line  
16 is built to design and construction specifications.

17           Q.   And are there any limitations on when  
18 construction may occur for any portions of this  
19 project?

20           A.   Yes, there are.  There have been  
21 environmentally sensitive areas that have been  
22 identified and those will require construction in  
23 an off-season period.  The Missouri River Basin and  
24 the alkali flats native grassland areas are good  
25 examples of those, although there are others.

1           And then some areas with a higher density  
2 of wetlands will be constructed off-season for ease  
3 of construction efforts and to facilitate less  
4 disturbance to the ground during construction.

5           Q.    And we heard a little bit about the  
6 environmental inspector, but could you talk a bit  
7 about the environmental monitoring that will occur  
8 during construction?

9           A.    Yes.  Monitoring will be conducted  
10 throughout the construction period.  Prior to  
11 construction personnel that will be working in the  
12 area, any identified environmentally sensitive  
13 areas will be clearly marked in order to prevent  
14 disturbance.

15           Also, any construction personnel that will  
16 be out there will all be trained in the recognition  
17 and handling of environmentally sensitive areas,  
18 what to avoid and what to do if unexpected area or  
19 artifacts are -- are uncovered.

20           And then the project will also have an  
21 environmental inspector assigned to it full-time.

22           Q.    And what are the steps that are involved  
23 in construction of the project?

24           A.    The major phases would be the right-of-way  
25 preparation, the actual construction itself and

1 then restoration.

2 Q. And describe for us what the right-of-way  
3 preparation will involve.

4 A. The right-of-way preparation involves the  
5 right-of-way being periodically marked to identify  
6 the edges so that we know where the right-of-way is  
7 and can remain in there.

8 Sensitive areas that are inside or in  
9 close vicinity to the right-of-way will be marked  
10 to prevent inadvertent disturbance during  
11 construction.

12 Trees and shrubs will be cleared. And  
13 then we'll move aside the good topsoil in  
14 agricultural areas, move that off to the side so it  
15 can later be put back.

16 There will be staking of the structure  
17 locations. There will be compaction of some --  
18 some work areas within the right-of-way.

19 And then there will be access points along  
20 roads, ditches, et cetera, graded to allow access  
21 to the right-of-way.

22 Q. And what does the construction process  
23 involve?

24 A. The construction process, itself, involves  
25 a fence gate installation or fences being moved

1 or -- or replaced as necessary for access.

2 And then the foundation -- a contractor  
3 will come in and auger or drill out the foundation  
4 excavations and the concrete gets poured.

5 And then once that concrete has set, the  
6 structure is then put together, which is called  
7 framing, and then lifted into place and secured on  
8 the foundation.

9 And then the wires are -- are strung in  
10 between the structures and set at the proper  
11 tensions, which is called stringing and sagging.

12 Q. And what steps will be taken to restore  
13 the project right-of-way following construction?

14 A. Once the construction is -- is completed  
15 in a given area, the right-of-way gets cleaned up  
16 so anything -- debris or the excavated material,  
17 all those things, the right-of-way gets cleaned up.  
18 Soil gets de-compacted using deep soil techniques.

19 That topsoil that we pushed aside then  
20 gets put back and returned to the previous grading.

21 And then temporary access measures are  
22 removed, anything that we had to put in for access.

23 And then the land is then -- is then  
24 reviewed with the landowners to make sure that, you  
25 know, all the work got completed and we've -- we've

1 properly restored the area.

2 Q. And throughout this construction process,  
3 what steps will Minnkota take to minimize project  
4 impacts?

5 A. There are a number of items that we look  
6 at. One is making sure that the right-of-way does  
7 get cleaned up in a timely manner so we don't have  
8 things laying out.

9 During the construction period, there are  
10 a number of impacts we want to be cautious around.  
11 One is public safety around excavations. Excavated  
12 sites will be filled the same day or will have the  
13 proper safety measures up to prevent accidents.

14 Interruption of land use activities. The  
15 landowner liaison that was talked about earlier and  
16 the right-of-way agents will work to inform  
17 landowners when construction will be in the area  
18 and work with landowners to minimize those  
19 interruptions while we're out there.

20 We're also concerned about -- about  
21 disruption of sensitive areas. And, again, the  
22 construction contractors will have training to  
23 identify those areas and what to do around them.  
24 All those areas will be -- will be very clearly  
25 marked, and we'll have an environmental inspector

1 out there to monitor construction activities.

2 Road traffic flow is also a concern. We  
3 will have traffic plans developed and publicized so  
4 that the public knows when and where the  
5 construction activities will be -- will be.

6 In terms of restoration, one of the  
7 concerns we have is compaction of the soil, so we  
8 need to make sure we get that de-compacted using  
9 deep soil techniques, and that will be monitored by  
10 the construction inspection team as well.

11 And then during construction and also as a  
12 part of restoration, road maintenance is a concern.  
13 So making sure that we know what the preexisting  
14 conditions are of each one of the roads, working  
15 with the county and township road supervisors and  
16 then maintaining those roads while we're out there  
17 and then making sure that those -- those roads are  
18 properly restored to their preexisting conditions,  
19 at least.

20 Q. And we'll talk a little bit about the  
21 development of the route. Could you tell us what  
22 was considered from an engineering and design  
23 perspective when selecting the proposed route?

24 A. Yes. The major considerations that we had  
25 was compliance with the Siting Act and siting

1 criteria; minimizing environmental impacts;  
2 addressing agency concerns; addressing landowner  
3 concerns; and then, lastly, the feasibility from a  
4 design and a construction perspective.

5 Q. And were the exclusion area, avoidance  
6 area, selection and policy criteria set forth in  
7 the Commission's rules considered by Minnkota when  
8 selecting the proposed project?

9 A. Yes, they were. A discussion of those  
10 criteria is provided in Section 3 of the route  
11 permit application and the exclusion avoidance area  
12 criteria will be discussed further by the next  
13 witness, Mr. Brian Hunker.

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

17 A. Yes, they were. And a discussion of those  
18 was also provided in Section 7 of the route permit  
19 application.

20 Q. And I will direct you again to the white  
21 exhibit binder and if -- I'll direct you to what's  
22 been marked as Exhibit E1 through E10.

23 And I should also say there are a set of  
24 exhibits at the back of the room if anyone needs to  
25 look at them, and we're also putting up boards

1 showing at least part of Exhibit E1 through E10.

2 Could you tell us what that exhibit is?

3 A. E1 through E10 is -- is -- contains a map  
4 of the proposed project route.

5 Q. And it's broken -- we have ten different  
6 maps in this particular exhibit, just so you know.  
7 Were the maps prepared under your supervision and  
8 control?

9 A. Yes, they were.

10 MS. SMITH: I would offer Exhibit E1  
11 through E10.

12 JUDGE HOBERG: Do you have any objection?

13 MR. SAGSVEEN: No, Your Honor.

14 JUDGE HOBERG: Exhibit E -- E1 through E10  
15 are admitted.

16 Q. (MS. SMITH CONTINUING) And as the judge  
17 noted, we are only focusing on the area that's  
18 specific to today's process, so we're going to  
19 focus on E1 through E3. And if you could just walk  
20 us through the project route and kind of talk about  
21 some of the different factors that were taken into  
22 consideration when selecting the route.

23 A. Yes, I will. Beginning with map E1, I  
24 guess for an overview from the corridor hearings  
25 that we had, we spent a lot of detailed time

1 talking about why the corridor was in the location  
2 that it was. So now that we're at the route permit  
3 stage, for the most part the corridor -- the route  
4 centerline was placed in the middle of the  
5 corridor.

6 So there are a number of areas where we  
7 had to do some -- some shifts, if you will, and  
8 some expanded corridor areas. So I'll mainly talk  
9 about those areas, unless there's specific  
10 questions on -- on any of them.

11 Looking at map E1, we begin coming out of  
12 the Center substation, miss the Wilbur Boldt  
13 Wildlife Management Area, going just to the north  
14 side of that.

15 And then we come to our first expanded  
16 corridor area, which is in Oliver County. And that  
17 was -- that was a corridor -- that was an expanded  
18 corridor area that was based on some landowner  
19 testimony during the corridor hearings to look for  
20 other opportunities to go in there so that we were  
21 further away from residences and to meet  
22 landowners' requested needs. And so -- so there is  
23 a little bit of a jog, if you will, to where we go  
24 south in a section to try to accommodate the  
25 landowners' requests in that area.

1           Then we're basically in the middle of the  
2 corridor going across the Missouri River and coming  
3 into the Painted Woods Township where, again,  
4 there's really no change other than being within  
5 the corridor width.

6           There is an area just north of the McLean  
7 County/Burleigh County line in the region known as  
8 the Lake Yanktonai region up there where we did --  
9 we did have to put a little bit of a jog in the  
10 route centerline, and that was to miss some  
11 cultural areas and artifacts that were discovered  
12 in there.

13           And then we basically move right back to  
14 the middle of -- of the corridor for the rest of  
15 map E1, leaving on that upper right-hand corner.

16           Same type of thing with map E2. We're  
17 basically just going up the middle of the corridor  
18 that was established in there. I guess one point  
19 of reference was -- was going across the Bureau of  
20 Reclamation land that is over by East Lake Park,  
21 which is part of the McClusky Canal system, that  
22 did require a special design with longer spans in  
23 there to span across that.

24           And that brings us up to map E3 on the  
25 bottom left-hand corner to where we basically come

1 up and we go on map E3 and then we begin moving in  
2 a diagonal manner through the western portion of  
3 Sheridan County where we go through Sheridan  
4 County.

5 There is an expanded corridor portion  
6 right on the southern portion of that, right after  
7 you go north of Highway 200. There's North Dakota  
8 trust land that was in that area that they asked us  
9 to move and change the route centerline alignment.  
10 And we went to the neighbors on the west of that  
11 and that was acceptable to the landowners in that  
12 area, so -- so there was a -- there was a change  
13 from -- from both the corridor and the route  
14 centerline.

15 And then basically the rest of the portion  
16 on the Sheridan diagonal and then -- and then the  
17 east-west portion going across the McClusky Canal  
18 and heading -- heading west into Sheridan County,  
19 those areas there were really defined by the  
20 proposed wind farm that was in that area.

21 There's another expanded corridor portion  
22 and this was based on the corridor hearings, on  
23 this east-west portion to where the corridor was  
24 expanded down to the section line. And there was a  
25 number of -- number of landowners that testified at

1 the corridor hearings asking if we could go down to  
2 the section line.

3           There -- there isn't -- there isn't an  
4 indication of that through this -- through this  
5 long -- long east-to-west run in there of us being  
6 able to move down to the section line. That was  
7 mainly driven by the proposed wind farm in that  
8 area, and -- but there is other evidence when --  
9 when we get further on down the route of where we  
10 were able to accommodate and then -- and to make  
11 that shift.

12           And that kind of takes us through the  
13 areas for this -- for this hearing.

14           Q. All right. And then if you'll look at  
15 what's been previously marked as Exhibit F, and  
16 that's actually a separate exhibit. In yours it's  
17 a black binder because it's a z-fold. For most of  
18 us it's these flat binders.

19           Could you identify that exhibit for us?

20           A. Yes. Exhibit Foxtrot is the plan and  
21 profile that shows the final structure locations  
22 along the entire route.

23           MS. SMITH: I would offer Exhibit F.

24           JUDGE HOBERG: That's this one here, this  
25 big long brown one for us; correct?

1 MS. SMITH: Yes, Your Honor.

2 JUDGE HOBERG: All right. Any objection  
3 to Exhibit F?

4 MR. SAGSVEEN: No, Your Honor.

5 JUDGE HOBERG: Exhibit F is admitted.

6 Q. (MS. SMITH CONTINUING) Then if you'll  
7 look at what's been previously marked as Exhibit G1  
8 through G5, and that is again in the white binder  
9 that's in front of you.

10 Could you identify that exhibit for us?

11 A. Yes. Exhibit Golf contains maps of -- of  
12 the corridor modifications.

13 MS. SMITH: And I would offer Exhibit G1  
14 through G5.

15 JUDGE HOBERG: Any objection to G1 through  
16 G5?

17 MR. SAGSVEEN: No, Your Honor.

18 JUDGE HOBERG: Exhibit G1 through G5 is  
19 admitted.

20 MS. SMITH: And we have G -- Exhibit G, we  
21 have that on boards, as well, so we're going to put  
22 up a couple of them, G1 through G2. That's the  
23 portion that's relevant to today's hearing.

24 Q. (MS. SMITH CONTINUING) Could you tell us  
25 what those corridor modifications were or why

1 we're -- why Minnkota is requesting corridor  
2 modifications in those exhibits?

3 A. These were the areas coming out of the  
4 corridor hearings where we had some -- some  
5 expanded corridor and then went back and looked at  
6 route centerline positioning in those expanded  
7 corridor areas.

8 And in Golf 1, looking at that map, that  
9 was the one I talked a little bit earlier about  
10 making the jog down. What we found talking to the  
11 landowner to the east -- eastern portion of that --  
12 of that diagonal section where we actually just --  
13 just barely come out of -- of the corridor that  
14 came out of the Certificate of Corridor  
15 Compatibility was the landowner -- we were able to  
16 make -- make structure placements there to minimize  
17 the impact -- the cultural tilled fields -- I'm  
18 sorry, not cultural -- but tilled fields in that  
19 area.

20 So basically we have structures that --  
21 that diagonal was chosen to minimize the impact on  
22 the land use in that area. And that just kind of  
23 moved it just -- just a couple hundred feet out of  
24 the corridor. So that is one that we are  
25 requesting.

1           The other one on Golf 2 was -- was that  
2 expansion I talked about right along Highway 200 in  
3 Sheridan County. And this was the one where the  
4 North Dakota trust land, which is that uppermost  
5 orange -- orange-shaded area in there, that kind of  
6 asked us to go along the northern portion of their  
7 boundary. When we did that, going from the  
8 diagonal point that we had, it actually begins that  
9 section of area that we would call the Sheridan  
10 diagonal, that ended up putting that northern  
11 corner to make that turn a little bit outside of  
12 the corridor.

13           And, again, that was done based on a  
14 landowner, if you will -- it's North Dakota trust  
15 land -- but based on a landowner request, and the  
16 neighboring landowners were fine with those shifts.

17           MS. SMITH: I have no further questions.

18           JUDGE HOBERG: Thank you, Ms. Smith.

19           Mr. Sagsveen, please.

20           MR. SAGSVEEN: I have no questions, Your  
21 Honor.

22           JUDGE HOBERG: Mr. Lein?

23           MR. LEIN: No questions.

24           JUDGE HOBERG: Thank you.

25           Commissioner Clark, please.

1                   COMMISSIONER CLARK: No questions. Thank  
2 you.

3                   JUDGE HOBERG: Commissioner Cramer.

4                   COMMISSIONER CRAMER: I just might have  
5 one, maybe not so much for Duane, but for the --  
6 for the citizens in the room. Is there anybody  
7 here who's interested in a different portion of the  
8 line other than these -- this western portion?  
9 Realizing that, you know, where we are, but there  
10 might be somebody -- is there anybody that wants  
11 Duane to describe anything beyond these first three  
12 sections?

13                   COMMISSIONER CLARK: It goes to about  
14 Goodrich, I think.

15                   COMMISSIONER CRAMER: Yeah, it goes to  
16 about Goodrich. Would you like him to -- what --  
17 where is your land that you'd like --

18                   UNIDENTIFIED SPEAKER: I think Ralph --

19                   COMMISSIONER CRAMER: And Ralph --

20                   UNIDENTIFIED SPEAKER: -- wants to address  
21 an issue at Grand Forks --

22                   COMMISSIONER CRAMER: Okay.

23                   UNIDENTIFIED SPEAKER: -- in the Grand  
24 Forks area.

25                   COMMISSIONER CRAMER: Okay. Anybody

1 else -- that's my only concern is that while we're  
2 here and we want to accommodate this area, we -- I  
3 know there probably are people who are here who  
4 won't be at one of the other hearings. You too?

5 JUDGE HOBERG: Commissioner, perhaps the  
6 best way to do that is to hear their testimony and  
7 then see if -- if we can address that.

8 COMMISSIONER CRAMER: We can do that. I  
9 just don't want to lose Duane, but you're right, he  
10 can come back.

11 JUDGE HOBERG: Right.

12 THE WITNESS: I'll actually be here all  
13 day, Commissioner.

14 COMMISSIONER CRAMER: Okay. Okay.

15 MS. SMITH: We can do it either way. We  
16 can have him go through it now or we can have him  
17 come back up and address those areas.

18 COMMISSIONER KALK: Answer -- answer --  
19 answer the questions after the questions come,  
20 would be my thought.

21 COMMISSIONER CRAMER: Yeah. Just  
22 generally -- the one thing I'm trying to avoid is  
23 public -- the public can't ask questions, but they  
24 can make statements that you can respond to, so --  
25 but --

1 THE WITNESS: Yeah.

2 COMMISSIONER CRAMER: Okay. I'm fine. I  
3 have no questions myself, but I just want to make  
4 sure we don't miss --

5 JUDGE HOBERG: Okay. So we'll do it --  
6 we'll hear what they have to say and they can raise  
7 their concerns and have him come back; is that --

8 COMMISSIONER CRAMER: Sure. That's fine.

9 JUDGE HOBERG: Okay.

10 COMMISSIONER CRAMER: Yeah.

11 JUDGE HOBERG: Okay.

12 MS. SMITH: Okay.

13 COMMISSIONER CRAMER: Thank you.

14 JUDGE HOBERG: Thank you, Commissioner  
15 Cramer.

16 Commissioner Kalk, please.

17 COMMISSIONER KALK: Just one.

18 **EXAMINATION**

19 **BY COMMISSIONER KALK:**

20 Q. Duane, I don't know if you have the brown  
21 binder for lack of a better -- whatever -- whatever  
22 number it is. Exhibit F.

23 JUDGE HOBERG: Exhibit F, yes.

24 THE WITNESS: Yep. I have Exhibit F.

25 Q. (COMMISSIONER KALK CONTINUING) The very

1 first page. We come out of the substation and then  
2 we run northeast.

3 A. Yes.

4 Q. And we get to that property, looks like a  
5 farmstead northeast of the Game and Fish Department  
6 land?

7 A. Yes.

8 Q. It seems real close to that farmstead.

9 A. We are approximately 70 feet from one of  
10 the outbuildings there.

11 Q. Okay. Why can't we figure out something  
12 different than that? That's -- unless there's  
13 additional testimony, but that seems way too close.

14 A. That's an unoccupied residence that has  
15 been purchased by Minnkota.

16 Q. Okay. So you guys own the whole thing,  
17 huh?

18 A. Yes.

19 Q. Did you have to buy it to get the rights  
20 to go through it?

21 A. That was --

22 Q. You don't have to answer that.

23 Okay. Tell me this, then. So -- so does  
24 that mean this is effectively an area that can  
25 never be purchased by someone else?



1 Kalk.

2 Mr. Sagsveen, please.

3 MR. SAGSVEEN: I do have one question,

4 Your Honor.

5 **CROSS-EXAMINATION**

6 **BY MR. SAGSVEEN:**

7 Q. I noticed that a water permit was being  
8 applied for. Is that for more than dust abatement  
9 in the construction process?

10 A. I'm actually going to defer that question  
11 to the next witness, Brian Hunker. He -- he's more  
12 up on the details of all the permitting.

13 MR. SAGSVEEN: Okay.

14 JUDGE HOBERG: Thank you.

15 Any further questions of Mr. Phillips? No  
16 further questions. Thank you, Mr. Phillips.

17 THE WITNESS: Thank you.

18 JUDGE HOBERG: Yeah. Let's take about a  
19 ten-minute recess here.

20 (Recessed at 10:24 a.m. to 10:35 a.m.)

21 JUDGE HOBERG: All right. Let's go back  
22 on the record. I have the attendance sheet here --  
23 hearing attendance sheet. Anyone present who  
24 didn't sign the attendance sheet? You didn't?

25 UNIDENTIFIED SPEAKER: Could we have more

1 volume, please? It's awfully hard to hear. Thank  
2 you.

3 JUDGE HOBERG: How is that? Is that  
4 better?

5 UNIDENTIFIED SPEAKER: A little better.

6 JUDGE HOBERG: All right. Okay. Raise  
7 your hand and get my attention if you're not  
8 hearing things as we go along, please.

9 All right. Our next witness is  
10 Mr. Hunker, Ms. Smith?

11 MS. SMITH: Yes, Your Honor.

12 JUDGE HOBERG: Mr. Hunker, please.

13 Mr. Hunker, did you hear the admonition I  
14 gave earlier in regard to perjury?

15 MR. HUNKER: Yes, I did.

16 (Witness sworn.)

17 JUDGE HOBERG: Thank you.

18 Ms. Smith, please.

19 **BRIAN HUNKER,**  
20 having been first duly sworn, was examined and  
21 testified as follows:

22 **DIRECT EXAMINATION**

23 **BY MS. SMITH:**

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

1           A.     Brian Hunker.

2           Q.     And who are you employed by?

3           A.     HDR Engineering.

4           Q.     And what is your business address?

5           A.     701 Xenia Avenue South, Suite 600,  
6     Minneapolis, Minnesota.

7           Q.     And what is your educational background?

8           A.     I have a bachelor's of science in  
9     environmental studies from the University of  
10    Wisconsin-Madison, and I have about ten years  
11    environmental consulting experience on energy  
12    projects.

13          Q.     And could you please tell the Commission  
14    about your work history?

15          A.     Sure. I have gained -- or throughout my  
16    career I have gained project management compliance  
17    and permitting experience working on linear energy  
18    transmission projects -- transmission and pipeline  
19    projects.

20                 I have a broad understanding of the  
21    regulatory framework relating to federal and state  
22    environmental review documentation; led routing  
23    studies, gathered environmental and land use data  
24    through windshield surveys -- or windshield and  
25    field surveys; analyzed data in GIS; participated

1 in public open houses, stakeholder outreach and  
2 agency meetings.

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

5 A. Environmental consulting project manager.

6 Q. And in that role you were involved in the  
7 environmental analysis of the project route; is  
8 that right?

9 A. Yes.

10 Q. And you were also involved in preparation  
11 of the route permit application?

12 A. Yes.

13 Q. And talking a bit about the siting rules  
14 that we are bound to follow, could you please  
15 discuss whether any exclusion areas are crossed by  
16 the project route?

17 A. Sure. As shown in Table 3.1-1 of the  
18 route permit application, there is one exclusion  
19 area that will be spanned by the project. This  
20 exclusion area are areas -- is areas critical to  
21 the life stages of threatened and endangered  
22 species, specifically that would be critical  
23 habitat for the federally threatened piping plover.

24 The Missouri River is designated as  
25 critical habitat for the piping plover. The

1 project will span the Missouri River. And it is  
2 important to note that there will be no direct  
3 impacts to the critical habitat.

4 Structures will be placed approximately  
5 150 feet from the river's edge, and Minnkota will  
6 not construct across the Missouri River during the  
7 piping plover's breeding season.

8 And during construction no equipment will  
9 be located within the Missouri River.

10 The Rural Utilities Service has engaged  
11 the United States Fish & Wildlife Service in the  
12 Section 7 consultation process as a part of the  
13 National Environmental Policy Act, or NEPA, process  
14 to ensure that the project will not endanger the  
15 continued existence of any listed species or  
16 adversely modify any designated critical habitat.

17 Q. And could you discuss whether there are  
18 any avoidance areas that are crossed by the project  
19 route?

20 A. Sure. The avoidance areas crossed by the  
21 project route are discussed in Table 3.2-1 of the  
22 route permit application, and I will briefly  
23 discuss these avoidance areas and how the project  
24 will avoid them.

25 First are designated or registered state

1 management areas. There's one wildlife management  
2 area, the Wilbur Boldt WMA, that is -- that will be  
3 crossed by the project.

4 Minnkota coordinated with the North Dakota  
5 Game and Fish Department and no structures will be  
6 located within and no lines will cross the WMA.

7 Minnkota has obtained an overhang easement  
8 from the North Dakota Game and Fish Department.

9 Access will be maintained and recreational  
10 activity may continue.

11 Second criteria are historical resources,  
12 not designated as exclusion or avoidance areas.

13 There are two types of archeo -- or  
14 cultural resources along the project route. These  
15 are the archeology sites and architectural sites.

16 So an archeology site is typically on the  
17 ground surface or below the surface. And an  
18 architectural site would be a historic building or  
19 a structure.

20 So there are 29 archeological resource  
21 sites that were identified within the project  
22 right-of-way. 12 structures will be located within  
23 6 archeological site boundaries.

24 Structure locations will avoid impacts to  
25 the site features. So if you can think of a site

1 boundary as drawn around a cluster of features  
2 such -- and a feature would be a stone circle or a  
3 cairn. So, in other words, a site is not  
4 completely filled with resources but has holes  
5 within them. And the transmission structures will  
6 be located in these areas with no features.

7 And Minnkota is coordinating with the  
8 State Historic Preservation Office, or SHPO, on  
9 these structure locations.

10 There are 36 architectural resources that  
11 were identified within the project's architectural  
12 area of potential effect, or APE, and that was  
13 defined as a half mile on either side of the  
14 project right-of-way centerline and one mile on  
15 either side of the project right-of-way centerline  
16 at the Missouri River crossing.

17 Of these properties, one property was  
18 listed within the National Register of Historic  
19 Places and nine are recommended as eligible for  
20 listing.

21 There are -- one of the historic  
22 structures eligible for listing on the National  
23 Register of Historic Places has been identified as  
24 being adversely visually affected by the proposed  
25 project. Mitigation will be implemented to

1 minimize this visual impact, and the mitigation  
2 will be screening with vegetation. And SHPO has  
3 concurred with the proposed mitigation.

4 Third avoidance areas is is the facility  
5 located within 500 feet of a residence. So  
6 Minnkota's developed a route to avoid occupied  
7 homes by maximizing setbacks to the extent  
8 practicable, and in some instances it was  
9 preferable for the project route to pass within  
10 500 feet of an occupied home due to other routing  
11 factors.

12 So there are nine occupied and/or vacant,  
13 but habitable, residences within 500 feet of the  
14 transmission facility. And there's one vacant  
15 uninhabitable home that is located within the  
16 project route and will be removed.

17 Minnkota has obtained waivers of the  
18 500-foot setback requirement from the nine occupied  
19 or habitable homes and the one vacant not habitable  
20 home.

21 Fourth avoidance area are water sources  
22 for organized rural water distance.

23 The McClusky Canal will be crossed by the  
24 project route at two locations. One structure will  
25 be placed on the uplands of the canal, and no

1 direct impacts to the McClusky Canal or on water  
2 availability for rural water districts are  
3 anticipated.

4 Minnkota will obtain a special use -- or  
5 Minnkota will obtain special use permits from the  
6 U.S. Bureau of Reclamation for spanning the canal  
7 at one location and installation of a structure on  
8 Bureau of Rec land at a second location.

9 Rural water pipelines are potentially  
10 present and no impacts are anticipated. Minnkota  
11 will survey for underground utilities in order to  
12 avoid the impacts -- or in order to avoid an  
13 impact.

14 Fifth avoidance area are areas of  
15 recreational significance, not designated as  
16 exclusion areas.

17 The North Country National Scenic Trail;  
18 Lewis and Clark National Historic Trail; the Chain  
19 of Lakes Recreation Area, McClusky Canal, will be  
20 crossed by the project route. Minnkota will span  
21 the trails and the Chain of Lakes Recreation Area.

22 No structures will be located within the  
23 Chain of Lakes Recreation Area. And Minnkota will  
24 obtain a special use permit from the Bureau of  
25 Reclamation for spanning the Chain of Lakes.

1           Visual impacts have been max -- have been  
2 minimized by placing structures away from features  
3 to the extent practicable.

4           Access to the resources will be maintained  
5 so that recreational activities may continue.

6           There are no reasonable alternatives to  
7 crossing these resources since the trails run along  
8 the Missouri River and the McClusky Canal.

9           The project route will cross the Missouri  
10 River near an existing transmission line and will  
11 cross the Chain of Lakes Area parallel to State  
12 Highway 41.

13          Q.    And will any significant adverse effects  
14 resulting from the location, construction and  
15 operation of the project as they relate to the  
16 selection criteria set forth in the Commission's  
17 rules be at an acceptable minimum or managed and  
18 maintained in an acceptable minimum?

19          A.    Yes.   Please see Section 3.3 and Table  
20 3.3-1 of the route permit application for the  
21 selection criteria.

22          Q.    And then if you'll turn to what's been  
23 previously marked as Exhibit H and this is in the  
24 exhibit binder in front of you.

25                Do you recognize this exhibit?

1 A. Yes.

2 Q. And can you tell us what it is?

3 A. This exhibit contains updated versions of  
4 Section 4.1 and Table 5.17 -- I'm sorry -- yeah,  
5 5.17-1 of the route permit application.

6 Q. Could you explain just in general terms  
7 what was updated and why?

8 A. Yes. The updates take into account the  
9 alignment modifications identified in Exhibit B and  
10 the final structure placements provided in  
11 Exhibit F.

12 So examples of specific updates include a  
13 reduction in the number of homes within 500 feet of  
14 the transmission facility from 11 to 10; about one  
15 acre increase in prime farmland impacts; and about  
16 one structure less in a floodplain, therefore, a  
17 slight reduction in floodplain impacts. But  
18 overall the changes are minor from what was filed  
19 in the application.

20 Q. And just to clarify, 4.1 is the general  
21 route description; is that right?

22 A. Yes.

23 Q. And then 5.17-1, that table talks about a  
24 summary of project impacts; is that right?

25 A. Correct.

1 MS. SMITH: I would offer Exhibit H.

2 JUDGE HOBERG: Any objection to Exhibit H?

3 MR. SAGSVEEN: No, Your Honor.

4 JUDGE HOBERG: Exhibit H is admitted.

5 Q. (MS. SMITH CONTINUING) And we'll talk a  
6 little bit about the different studies that were  
7 conducted for this project and when any applicable  
8 reports were filed. Could you walk us through  
9 first the -- you can walk through all of them, but  
10 first the studies that were filed with the  
11 application -- Certificate of Corridor  
12 Compatibility application and then moving forward.

13 A. Sure. A number of environmental studies  
14 were conducted over the course of developing the  
15 project corridor. These studies were filed with  
16 the Certificate of Corridor Compatibility  
17 application, and they include the macro-corridor  
18 study, the scoping report, environmental assessment  
19 with scoping, cultural resources Class I literature  
20 search and a raptor nest survey.

21 Additional environmental studies were  
22 conducted during development of the project route,  
23 and reports associated with some of those studies  
24 were provided within the route permit application.

25 These reports included the deeply buried

1 site report, historic building inventory and  
2 evaluation report and a Sheyenne River hydrology  
3 study technical memo.

4 Some reports were not completed until  
5 after the route permit application was filed but  
6 were completed prior to today's hearings -- or  
7 today's hearing.

8 And these exhibits -- or these studies  
9 include the historic property treatment plan; the  
10 revised architectural APE technical memo; Class III  
11 cultural resources inventory report, a first  
12 addendum to that Class III report and a second  
13 addendum to the Class III report; a deeply buried  
14 site technical memo; a wetland delineation report  
15 and one addendum to the delineation report; and a  
16 tree sampling plan.

17 Q. And we'll walk through some of these  
18 reports very briefly. The first one would be the  
19 one that was -- one of the ones that was filed with  
20 the route permit application and that's the  
21 historic building inventory and evaluation report.  
22 Could you discuss that report for us?

23 A. Yes. The historic building inventory and  
24 evaluation report -- the Rural Utilities Service  
25 and the North Dakota State Historic Preservation

1 Office requested that the project consider the  
2 potential for adverse impacts to historic buildings  
3 and structures.

4 So the goal of this survey was to provide  
5 information regarding the type and distribution of  
6 historic buildings or structures within the  
7 architectural APE.

8 And in conclusion, this inventory  
9 documented 36 architectural resources within the  
10 APE and one would have adverse visual effects.  
11 Mitigation will be implemented to minimize the  
12 visual effect, and SHPO has concurred with this  
13 mitigation.

14 Q. And just to clarify, that's the same --  
15 that's the same structure that you were discussing  
16 earlier when talking about the avoidance areas; is  
17 that right?

18 A. Yes.

19 Q. And then if you'll look at what's been  
20 marked as Exhibit I in the binder in front of you,  
21 could you tell us what that exhibit is?

22 A. Yes. This is the historic property  
23 treatment plan with the SHPO concurrence letter.

24 Q. And then this is the treatment plan that  
25 lays out the mitigation measures for that one

1 historic structure; is that right?

2 A. Yes. That's correct.

3 MS. SMITH: I would offer Exhibit I.

4 JUDGE HOBERG: Any objection?

5 MR. SAGSVEEN: No, Your Honor.

6 JUDGE HOBERG: Exhibit I is admitted.

7 Q. (MS. SMITH CONTINUING) So let's turn then  
8 to those exhibits that -- or those reports that  
9 have been filed since the route permit  
10 application -- or prepared since the route permit  
11 application was filed. And then if you'll look at  
12 what's been marked as Exhibit J, could you identify  
13 that exhibit for us?

14 A. Yes. It is the revised architectural APE  
15 technical memo with SHPO concurrence.

16 Q. And could you discuss briefly the findings  
17 and conclusions in that memorandum?

18 A. Yes. This technical memo is an update to  
19 the historic building inventory that was provided  
20 in Appendix E of the route permit application and  
21 covers the revised architectural APE due to  
22 alignment shifts within the modified corridor  
23 areas.

24 In conclusion, all the buildings  
25 documented within the revised APE did not have

1 sufficient age or integrity to merit consideration  
2 as a historic property, and SHPO concurred with  
3 this conclusion.

4 MS. SMITH: All right. I would offer  
5 Exhibit J.

6 JUDGE HOBERG: Any objection?

7 MR. SAGSVEEN: No, Your Honor.

8 JUDGE HOBERG: Exhibit J is admitted.

9 Q. (MS. SMITH CONTINUING) And then if you'll  
10 look at what's been marked as Exhibit K and it's  
11 the three cultural resource Class III reports, and  
12 they are in a separate binder marked as Exhibit K.

13 Could you talk about those reports and the  
14 overall conclusions of those three reports?

15 A. Sure. As previously noted, the three  
16 Class III inventories identified 29 archeological  
17 sites within the project right-of-way, eight sites  
18 from SHPO's database and 21 previously unrecorded  
19 sites.

20 Structure locations will avoid impacts to  
21 site features. And SHPO concurred with the  
22 inventories' determinations of no historic  
23 properties affected and no significant sites  
24 affected, as well as the recommendations regarding  
25 areas remaining for shovel testing, avoidance areas

1 and National Register status.

2 Q. And just to clarify, there's two -- so the  
3 first Class III report, there's a SHPO concurrence  
4 letter provided in Exhibit K for that; right?

5 A. Correct.

6 Q. And there's a concurrence letter for the  
7 second report as well; is that right?

8 A. That would be the first addendum --

9 Q. Yes.

10 A. -- to the Class III. Correct.

11 Q. Thank you.

12 And for the second addendum you just  
13 recently received the SHPO concurrence letter; is  
14 that right?

15 A. That is. Yes.

16 MS. SMITH: I'm going to hand out that  
17 concurrence letter now.

18 Q. (MS. SMITH CONTINUING) And just to  
19 clarify this, what concurrence letter does this  
20 report go to?

21 A. The concurrence letter that you just  
22 handed out goes to the second addendum to the Class  
23 III cultural resources inventory.

24 Q. Okay. And it was received after we  
25 submitted the exhibits -- hearing exhibits; is that

1 correct?

2 A. Correct.

3 MS. SMITH: And so we would ask that this  
4 also be included as part of Exhibit K.

5 JUDGE HOBERG: I will.

6 MS. SMITH: And I would offer Exhibit K.

7 JUDGE HOBERG: Any objection to Exhibit K?

8 MR. SAGSVEEN: I just want to clarify.

9 Does Exhibit K constitute a Class III resources  
10 study on all parcels or all parcels along the line  
11 that you've been granted access to?

12 THE WITNESS: It covers all of the areas  
13 along the line that we -- yeah, that we -- well,  
14 that we have had access to and that we are able to  
15 conduct surveys on. So we were able to conduct  
16 pedestrian surveys, but there are some parcels that  
17 require shovel testing and those will be shovel  
18 tested this spring.

19 MR. SAGSVEEN: Okay. So do you anticipate  
20 that there will be a second -- or a third addendum  
21 to the Class III resources?

22 THE WITNESS: Yes. And that -- that third  
23 addendum will cover the areas that we're going to  
24 shovel test.

25 MR. SAGSVEEN: And those shovel tests are

1 the only ones that haven't been tested or --

2 THE WITNESS: Correct.

3 MR. SAGSVEEN: -- walked or pedestrian  
4 reviewed.

5 THE WITNESS: Yeah. Everything's been  
6 pedestrian surveyed.

7 MR. SAGSVEEN: Okay. All right.

8 THE WITNESS: We just -- due to ground  
9 freezing we weren't able to shovel test.

10 MR. SAGSVEEN: Okay. I have no  
11 objections.

12 JUDGE HOBERG: Thank you, Mr. Sagsveen.

13 So will that be a late-filed exhibit then  
14 or --

15 MS. SMITH: No. We do not intend to offer  
16 that as a --

17 JUDGE HOBERG: All right.

18 MS. SMITH: -- late-filed exhibit.

19 JUDGE HOBERG: Okay. All right.

20 All right. No objection. I'll admit  
21 Exhibit K with the February 17, 2012, SHPO letter.

22 Q. (MS. SMITH CONTINUING) And then if you'll  
23 turn back to the exhibit binder and look at what's  
24 been previously marked as Exhibit L. Do you  
25 recognize that exhibit?

1 A. Yes.

2 Q. Can you tell us what it is?

3 A. It is the deeply buried site technical  
4 memo with SHPO concurrence.

5 Q. And what is the purpose of the technical  
6 memorandum?

7 A. It is an update to the deeply buried site  
8 report that was provided in Appendix D of the route  
9 permit application and covers the alignment shifts  
10 that were made after the initial report was  
11 completed.

12 MS. SMITH: And I would offer Exhibit L.

13 JUDGE HOBERG: Any objection to L?

14 MR. SAGSVEEN: I have no objections, Your  
15 Honor.

16 JUDGE HOBERG: Exhibit L is admitted.

17 Q. (MS. SMITH CONTINUING) And then if you'll  
18 look at what's been previously marked as Exhibit M,  
19 could you tell us what that exhibit is?

20 A. Yes. It is the wetland delineation report  
21 and wetland delineation report addendum.

22 Q. And could you discuss the overall findings  
23 and conclusions of those two wetland delineation  
24 reports?

25 A. Sure. The two reports document 32

1 structures that will be located in wetlands causing  
2 about 107 acres of temporary impact and about  
3 2,500 square feet of permanent impact.

4 The wetland impacts will be permitted by  
5 the U.S. Army Corps of Engineers Nationwide Permit  
6 Number 12. And a preconstruction notification will  
7 be filed about 45 days prior to construction.

8 MS. SMITH: And I would offer Exhibit M.

9 JUDGE HOBERG: Any objection to M?

10 MR. SAGSVEEN: No, Your Honor.

11 JUDGE HOBERG: Exhibit M is admitted.

12 Q. (MS. SMITH CONTINUING) And then if you'll  
13 look at what's been previously marked as Exhibit N,  
14 could you tell us what that exhibit is?

15 A. Yes. It is the tree sampling plan.

16 Q. And could you discuss the purpose of the  
17 tree sampling plan for us?

18 A. This plan outlines a process for  
19 identifying trees and shrubs in high density areas  
20 within the 150-foot-wide right-of-way.

21 And a tree inventory report and a tree  
22 replacement plan will be developed and filed with  
23 the Commission. Minnkota will comply with the  
24 Commission's tree and shrub replacement  
25 specifications.

1 MS. SMITH: And I would offer Exhibit N.

2 JUDGE HOBERG: Any objection?

3 MR. SAGSVEEN: No, Your Honor.

4 JUDGE HOBERG: Exhibit N is admitted.

5 Q. (MS. SMITH CONTINUING) And then we were  
6 just talking a little bit about the shovel testing,  
7 and could you discuss for us what shovel testing  
8 needs to be completed yet for the project?

9 A. Sure. There are approximately 16  
10 properties or about two miles of route that need to  
11 be shovel tested.

12 JUDGE HOBERG: Is that one of the --

13 MS. SMITH: Yep. We're getting to that.

14 JUDGE HOBERG: Okay.

15 MS. SMITH: Yep.

16 JUDGE HOBERG: Okay.

17 Q. (MS. SMITH CONTINUING) So if you'll look  
18 at what's been marked as Exhibit O in the binder,  
19 and then also Exhibit O is put up on the board.  
20 There's three -- three different pages to  
21 Exhibit O1, 2 and 3. Can you identify that for us?

22 A. Yes. These are -- Exhibit O1 through O3  
23 show the areas requiring shovel testing in gold.  
24 You will note that there's a slight overlap between  
25 maps O1 and O2. You can see laydown area two, on

1 the far right -- or far left-hand side of O2. So  
2 basically all the areas remaining for shovel  
3 testing are shown on O1.

4 MS. SMITH: Okay. I would offer  
5 Exhibit O1 through 3. Sorry.

6 JUDGE HOBERG: Any objection to O1 through  
7 3?

8 MR. SAGSVEEN: No, Your Honor.

9 JUDGE HOBERG: Exhibit O1 through 3 is  
10 admitted.

11 Q. (MS. SMITH CONTINUING) And then could you  
12 discuss just briefly why the shovel testing hasn't  
13 been completed yet on these parcels? And I know  
14 you discussed it a little earlier, but if you could  
15 talk about it again.

16 A. Sure. Initially Minnkota did not have  
17 permission to survey some parcels, but once survey  
18 permission was obtained, pedestrian surveys were  
19 completed.

20 And weather conditions, such as frozen  
21 ground, prohibited completing shovel testing on the  
22 areas as shown within Exhibit O1 through O3.

23 Shovel testing is a standard methodology  
24 for archeology survey that determines whether soils  
25 contain cultural material not visible on the

1 surface. So typically during shovel testing the  
2 soil is hand shoveled and put into a screen and  
3 screened. But when the ground is frozen, the  
4 screening process makes -- it is very difficult to  
5 do.

6 So, in general, shovel testing will  
7 confirm that a structure avoids impacting a site's  
8 features.

9 Q. And when do you anticipate that the  
10 remaining shovel testing will be completed and a  
11 report completed?

12 A. Shovel testing will be completed in the  
13 spring of 2012 following ground thaw. And a report  
14 addressing these areas will be prepared and  
15 submitted to the SHPO once the shovel testing is  
16 complete.

17 Q. And in addition to the surveys that have  
18 already been conducted, are there any other surveys  
19 that are planned prior to construction?

20 A. Yes. Preconstruction surveys will be  
21 conducted to help minimize impacts upon biological  
22 resources. And these surveys will be a piping  
23 plover habitat occupancy survey; sharp-tailed  
24 grouse lek surveys; grassland bird surveys; Dakota  
25 skipper surveys; and raptor nest surveys.

1 Q. And then you previously testified that the  
2 project is undergoing a federal NEPA review process  
3 and that you've been involved in that process; is  
4 that right?

5 A. Correct.

6 Q. Could you tell us what the current status  
7 of that NEPA review process is?

8 A. Well, the RUS anticipates issuing a  
9 finding of no significant impact, or a FONSI, in  
10 late February.

11 Q. All right. And then we have in the binder  
12 marked as Exhibit P a version of the updated  
13 permits and approvals table, but we had one  
14 correction we wanted to make, so I'm going to hand  
15 out a revised version and we'll talk about that  
16 correction.

17 JUDGE HOBERG: So we can toss what's in  
18 here and --

19 MS. SMITH: (Nods head.)

20 JUDGE HOBERG: Okay.

21 MS. SMITH: Yes, you can.

22 Q. (MS. SMITH CONTINUING) And just to  
23 clarify, this -- what we've just handed out as  
24 Exhibit P, this is an update of the required  
25 permits and approvals that was provided in the

1 route permit application; is that right?

2 A. Yes.

3 Q. And could you explain what the update was  
4 from the original Exhibit P that we filed last  
5 Wednesday to today?

6 A. Sure. In the original Exhibit P on page  
7 two under the U.S. Department of Interior, Bureau  
8 of Reclamation -- so it's about in the middle of  
9 the page -- we have special use permits identified  
10 and that's needed for structures located within the  
11 Chain of Lakes Area and the McClusky Canal lands in  
12 Sheridan County.

13 And the new Exhibit P states that special  
14 use permits are still needed by the Bureau of  
15 Reclamation; however -- or permits needed for  
16 spanning the Chain of Lakes so there will be no  
17 structures within the Chain of Lakes Area, but  
18 there will be one structure on the McClusky Canal  
19 lands in Sheridan County.

20 Q. Okay. And that's consistent with your  
21 earlier testimony; is that right?

22 A. Yes.

23 Q. And Mr. Sagsveen had asked earlier about a  
24 water permit, and I think that's on page 6-3 of the  
25 Exhibit P right at the top. Could you respond to

1 his question about whether that permit will be  
2 needed?

3 A. Sure. A conditional water permit from the  
4 State Commission Office of State Engineering was  
5 listed on here for water appropriations and needed  
6 from a river or stream for, say, dust mitigation or  
7 something like that. At this time that permit is  
8 not anticipated to be needed.

9 MS. SMITH: And I would offer Exhibit P.

10 JUDGE HOBERG: Any objection to P?

11 MR. SAGSVEEN: I just want a point of  
12 clarification, I guess. In Table 3.2-1, which is  
13 the avoidance areas for the Wilbur Boldt Rec -- is  
14 it Recreation Area -- WMA, it says, "Minnkota has  
15 submitted an application for an overhead easement."

16 Is that -- would that not be included in  
17 this table or --

18 MS. SMITH: It's an easement, not a  
19 permit.

20 MR. SAGSVEEN: So you're not treating it  
21 as something --

22 MS. SMITH: No.

23 MR. SAGSVEEN: Okay. And is that still  
24 pending or --

25 THE WITNESS: That's been obtained.

1 MR. SAGSVEEN: Okay.

2 MS. SMITH: Yes.

3 JUDGE HOBERG: No objection then?

4 MR. SAGSVEEN: No objection.

5 JUDGE HOBERG: All right. Exhibit P is  
6 admitted.

7 Q. (MS. SMITH CONTINUING) In your opinion,  
8 based on your study and review, the exhibits and  
9 testimony presented here today and the siting  
10 statutes and rules, will construction of the  
11 proposed project produce minimal adverse  
12 environmental effects?

13 A. Yes.

14 MS. SMITH: I have no further questions.

15 JUDGE HOBERG: Thank you, Ms. Smith.

16 Mr. Sagsveen, please.

17 **CROSS-EXAMINATION**

18 **BY MR. SAGSVEEN:**

19 Q. Based on all the -- all the reports and  
20 everything that's been filed, do you anticipate  
21 that there will be any additional documents that  
22 you will obtain in this process or that will need  
23 to be filed as late exhibits?

24 MS. SMITH: No. I can answer that  
25 question. No, there are not.

1           MR. SAGSVEEN:   And maybe this question is  
2           better directed to you, Ms. Smith.   Do you  
3           anticipate that you'll file the waiver -- you'll  
4           docket the waivers that you obtain or will they be  
5           submitted as exhibits as some point?

6           MS. SMITH:   We did not intend to.   If  
7           that's requested, we have them and we can provide  
8           them.

9           MR. SAGSVEEN:   I think it's the Commission  
10          staff's desire that they be provided and docketed.

11          MS. SMITH:   If there's no objection, we'll  
12          probably do that as part of the next hearing.   Is  
13          that all right?

14          MR. SAGSVEEN:   That would be fine with me.

15          MS. SMITH:   Okay.

16          MR. SAGSVEEN:   I don't have any additional  
17          questions.

18          JUDGE HOBERG:   All right.   All right.  
19          Thank you.

20          MR. SAGSVEEN:   I guess --

21          JUDGE HOBERG:   Mr. Lein?

22          MR. LEIN:   I did have one -- or two,  
23          actually.   Do we expect something further from the  
24          historical society?

25          MS. SMITH:   No.   I -- as far as --

1 MR. LEIN: On the shovel testing or  
2 something --

3 MS. SMITH: Oh.

4 MR. LEIN: -- some kind of a finding, an  
5 end-use finding that there's no significant impact  
6 overall on anything?

7 MS. SMITH: I'll direct that to Brian.

8 THE WITNESS: From the SHPO they will  
9 review a report that we develop documenting the  
10 areas left for shovel testing.

11 MR. LEIN: Okay. And --

12 JUDGE HOBERG: So when can we expect that?  
13 I mean we're not filing anything, but --

14 MS. SMITH: We would request that it be  
15 filed prior to construction but not as a late-filed  
16 exhibit in this proceeding. It could be a  
17 condition of the order.

18 JUDGE HOBERG: Okay.

19 **CROSS-EXAMINATION**

20 **BY MR. LEIN:**

21 Q. And there is a table on 5-7 of the  
22 application -- Exhibit 2, is it? Table 5-2-2 -- or  
23 5.2-2, homes within 500 feet of the transmission  
24 facility. And this one I'm looking at was number  
25 ten on that list.



1 that are closest to the transmission line that are  
2 outside of the 500-foot range, somewhere -- like is  
3 there a lot of homes at 510 feet, I mean, to where  
4 they would satisfy the criteria, but they're pretty  
5 darn close? Do you have some -- some listing like  
6 that somewhere that you could refer to or maybe  
7 just tell us what -- maybe that question might be  
8 better to Duane or Mike, too, but --

9 A. Yeah.

10 Q. -- the one that came to me immediately is  
11 maybe you've moved some of these so they're outside  
12 500 feet, but they're 510 feet, and so the intent  
13 is probably very similar.

14 A. Yeah. Boy, I -- I don't have that number  
15 off the top of my head right now. Maybe we could  
16 get a --

17 MS. SMITH: I would note that in the  
18 hearing exhibits, in the maps that are shown, it  
19 depicts all the homes, so both those that that are  
20 within 500 feet and those that are not, if that's  
21 helpful.

22 COMMISSIONER KALK: So how far out do you  
23 go on that exhibit, because I'll look through that  
24 on break. I mean --

25 MS. SMITH: I think it shows all the

1 homes --

2 COMMISSIONER KALK: All of them.

3 MS. SMITH: -- within --

4 COMMISSIONER KALK: Okay.

5 MS. SMITH: -- the map.

6 JUDGE HOBERG: But it doesn't indicate how  
7 far exactly, does it?

8 MS. SMITH: No.

9 JUDGE HOBERG: No.

10 COMMISSIONER KALK: I'll look through that  
11 on break and then we can follow up, because we have  
12 two more of these to do.

13 Thank you.

14 JUDGE HOBERG: Thank you, Commissioner  
15 Kalk.

16 Ms. Smith, any further questions of  
17 Mr. Hunker?

18 MS. SMITH: No, Your Honor.

19 JUDGE HOBERG: Anything further of  
20 Mr. Hunker?

21 Thank you, Mr. Hunker.

22 THE WITNESS: Thank you.

23 JUDGE HOBERG: Do you have any other  
24 evidence to present at this time?

25 MS. SMITH: No, Your Honor. We would just

1 reserve the right to call rebuttal witnesses.

2 JUDGE HOBERG: All right. Thank you.

3 Okay. We're at that portion of the  
4 hearing where I indicated -- where I said I would  
5 indicate that we would have public testimony. So  
6 at this time we're going to take public testimony.

7 Has everyone signed the hearing attendance  
8 sheet that's present? Everyone's signed that? I  
9 think I need to get that back from someone.

10 All right. We're going to -- those who  
11 have indicated they're going to testify, I'm going  
12 to go right down the list for those that have said  
13 yes. And then for those that have a question mark,  
14 I'll take them later and ask if you still intend to  
15 testify.

16 So you'll come up to the front here,  
17 please, and -- and make your statements, provide  
18 the information you wish to provide us, and I'll --  
19 I'll need to swear you in, too, as a witness.

20 And then, as I said, the -- the applicant  
21 and Commission staff and the commissioners may have  
22 questions for you. They may not also.

23 All right. Ralph Leet. Yes, please be  
24 seated.

25 Mr. Leet, I believe you heard the

1 admonition I gave earlier in regard to perjury;  
2 correct?

3 MR. LEET: Yes.

4 (Witness sworn.)

5 MR. LEET: I'm just giving opinions.

6 JUDGE HOBERG: That's fine. That's fine.  
7 Why don't you state your full name for the record,  
8 please.

9 MR. LEET: Ralph H. Leet.

10 JUDGE HOBERG: And you're from where?

11 MR. LEET: Bismarck, North Dakota.

12 JUDGE HOBERG: All right. Thank you.  
13 What would you like to tell us?

14 **RALPH LEET,**

15 having been first duly sworn, was examined and  
16 testified as follows:

17 **STATEMENT**

18 **BY MR. LEET:**

19 MR. LEET: Well, I have a few things to  
20 talk about. The easements is something like a  
21 rent. In other words, when you take an easement --  
22 when we -- when they take an easement, they get use  
23 of the property. And when you lease the land out,  
24 the renter gets use of the property.

25 I understand the amount that people are

1 being offered is for this rent or easement for a  
2 hundred years. That's a -- that's -- it causes a  
3 lot of big income tax payments that -- when you get  
4 a lump sum payment like that.

5 My suggestion is that we have an extension  
6 service that gives you a yearly -- yearly rental  
7 use of cropland, pasture and hayland, and we  
8 should -- the landowner should get a yearly lease  
9 payment or easement payment to reduce the income  
10 tax they have to pay over the next hundred years.

11 And probably if we would -- we'd figure it  
12 out that if they offer \$15,000 and you rent land  
13 out for \$50 an acre, which would be about \$40,000,  
14 that's probably a -- a lot less.

15 My point is that -- that people who have  
16 land and this line is going to go over it should  
17 not have to subsidize Minnkota or the people who  
18 are receiving the electricity. And if they're not  
19 getting enough rent for the hundred years or if  
20 they are reducing their value of the land, you are  
21 causing them to subsidize the people who get the  
22 electricity and Minnkota. And I think that -- that  
23 is wrong. I really do.

24 We have -- we have a renter on our land  
25 over in Grand Forks that the lease is up. He's not

1 too -- he's not too happy about renting the land  
2 that would have -- have a line over it, but we have  
3 to negotiate -- he's a good renter. He takes care  
4 of our land. That's very important. He takes care  
5 of our land.

6 We have to know what's going to happen  
7 when you put this line on. We understand that's  
8 going to be put on sometime next summer. We don't  
9 know for sure. But he's not going to want to even  
10 put the crop in on the land that you're going to  
11 use -- they're going to use to put the poles in.  
12 There's going to be two poles on our land and  
13 they're going to have a line over it.

14 I don't know how much land -- we have to  
15 know and we have to negotiate with this renter  
16 pretty soon. We have to know how much land you're  
17 going to use to put the line up and when you're  
18 going to do it. If you're going to do it during  
19 the time of the crop season, he probably -- he  
20 probably won't want to rent that land and pay rent  
21 for it and have to go through the red tape of  
22 getting paid back the damages for this year -- for  
23 this year at least. So we're concerned about that.  
24 And we -- so we need to know how much land is  
25 affected by that.

1           Who pays -- who pays the income -- who  
2 pays the tax on this land when it's not used? We  
3 do, I suppose.

4           I would -- I would think that we're -- we  
5 hear them talking about fish and wildlife, and I  
6 think I like wildlife, too, but I do like  
7 individual farm people who own their land. I think  
8 they have -- should have precedence over the  
9 wildlife.

10           If they spent three and a half million or  
11 four million dollars to placate the wildlife  
12 people, what have they spent to placate the  
13 individual landowners during that same period of  
14 time? I think it's a little scary.

15           I think that there's other people who --  
16 oh, we need to -- we need to know when they're  
17 going to do this and we need to know how the roads  
18 are going to be blocked so the renter will be able  
19 to know if he can get the crop in.

20           Now, the easement is not -- hasn't  
21 anything to do with how it affects the land value,  
22 and I'm quite sure the land value is hurt by these  
23 lines. No -- no mention is made of that. On the  
24 80 acres we have, the pole that's -- the map they  
25 gave us where the pole is going to go is going to

1 go right over an old farmstead -- an old farmstead  
2 I took down and burned the house down and tore it  
3 down, but there's still a well there.

4           The land is a little higher up. It's not  
5 too far from Grand Forks -- Grand Forks. Now,  
6 being -- as we know in Bismarck, if you're within  
7 20 miles of Bismarck and have a plot of land to  
8 sell, somebody from Bismarck might want to live  
9 there and drive to work and give you a good price  
10 for it.

11           So this land has a well. It's a little  
12 higher up than the land close to the road, a little  
13 further east. There's a -- what we're doing -- my  
14 wife and I aren't going to do anything with it, I  
15 don't think, but we hope the kids will -- our  
16 children will have this. And what you're doing is  
17 making sure that we can't sell the land for -- a  
18 40-acre tract or a 20-acre tract for a good amount  
19 for somebody that wants to live out in the country  
20 and drive 25 miles to Grand Forks to work. That's  
21 what you're doing.

22           So there is some -- some reduction in  
23 value to much of the land, maybe not all of it, but  
24 much of it, and that isn't even talked about that I  
25 know of. So --

1           And, again, thank you for the chance to  
2 talk.

3           JUDGE HOBERG: Thank you, Mr. Leet. Just  
4 hold on a second. There may be a question.

5           MR. LEET: Okay.

6           JUDGE HOBERG: Ms. Smith, do you have any  
7 questions?

8           MS. SMITH: No, Your Honor.

9           JUDGE HOBERG: Are you going to bring  
10 somebody on to address that, perhaps?

11          MS. SMITH: I think we already have --

12          JUDGE HOBERG: All right. Okay.

13          MS. SMITH: -- but we'll -- we'll address  
14 that if we need to.

15          JUDGE HOBERG: All right. Thank you.

16          Mr. Sagsveen?

17          MR. SAGSVEEN: No, Your Honor.

18          JUDGE HOBERG: Thank you.

19          Commissioner Clark, please.

20          COMMISSIONER CLARK: I don't know if it's  
21 so much a question or maybe just a comment or some  
22 things for verification. First of all, I like your  
23 sweatshirt, so thank you for -- he's got an NDSU  
24 Bison sweatshirt on, for anybody who can't see him  
25 from behind. I especially like the fact that you

1 have some land up by Grand Forks and you may wear  
2 that around Grand Forks every now and then.

3 MR. LEET: We have to talk Norwegian up  
4 there.

5 COMMISSIONER CLARK: Ralph, thanks for  
6 your testimony. A lot of your concerns are things  
7 I can -- can appreciate. And if I was a landowner  
8 along the line, I think I would probably feel  
9 somewhat the same way, especially on some of these  
10 easement issues.

11 And we do hear concerns from landowners  
12 regarding easements and the amount of money that  
13 they are offered for easements, so on and so forth.

14 One of the things I do want to clarify a  
15 bit, both for you and for anyone else in the  
16 audience who may have similar concerns, is just  
17 explain a little bit about the role of the Public  
18 Service Commission.

19 While we hear these concerns and we  
20 appreciate hearing them because we talk with other  
21 policymakers about things like this, in the context  
22 of this proceeding they typically aren't things  
23 that we can take into consideration because our --  
24 under the law the focus is more on the  
25 environmental aspects of the siting. Again, not

1 that we don't appreciate them. We do.

2 The reason for that really ties to how  
3 state law interacts with regard to eminent domain,  
4 because eminent domain is something that we don't  
5 have any authority over. State law says only  
6 judges can do that, number one; and then once a --  
7 you go through a proceeding like this and  
8 compensation is fixed, only a judge can -- can  
9 decide what that -- that compensation should be.

10 And so it really -- that's kind of the  
11 tide that ends up in the court system as opposed to  
12 us, and so I think what utility companies do is  
13 they look at past precedent and what -- what courts  
14 have authorized for easements, and so on and so  
15 forth, and they kind of make a guess based on that,  
16 which, again, I appreciate the concern.

17 It may not be something we're able to take  
18 up in the context of this case, but I'm glad that  
19 you did testify with regard to it.

20 MR. LEET: Thank you.

21 JUDGE HOBERG: Thank you, Commissioner  
22 Clark. Just a minute.

23 Commissioner Cramer, any questions?  
24  
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**EXAMINATION**

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**BY COMMISSIONER CRAMER:**

Q. Well, I might want to explore just a little bit, Ralph, this concept of -- again, not that it's within our jurisdiction, but I think it's important to talk about -- this concept of who pays the taxes during construction when the land is not productive.

Your renter, you know, obviously can't pay you, so it's not productive, but they're paying you for crop damage. I mean I assume that's usually part of the deal.

A. He won't put the crop in because -- if they're going to do it.

Q. Okay. Well, when negotiating with the company for compensation, do you -- have you brought this to their attention that besides the lack of productivity for that particular season, perhaps damage for the next season or two, do you also include the taxes that have to be paid, because Grand Forks County is not really all that concerned about your situation probably?

A. I have not, I don't think. Maybe -- I've talked about it with several people. I've talked a lot of things, but I can't remember all the

1 negative things I might have talked about.

2 COMMISSIONER CRAMER: Sure. Okay. Well,  
3 it's an interesting thought and concept and I  
4 appreciate you bringing it and I appreciate you  
5 being here. I have nothing further. Thank you.

6 JUDGE HOBERG: Thank you, Commissioner  
7 Cramer.

8 Commissioner Kalk, please.

9 COMMISSIONER KALK: Just thank you for  
10 testifying, Ralph. I don't know if you heard in  
11 the beginning about a -- sounds like the company  
12 wants to have an interactive site where you can get  
13 a better picture of where -- when this may be  
14 constructed on your property. Sounds like that's  
15 one of your major concerns that -- I can see that  
16 if you're trying to settle with the landowner -- or  
17 you're the landowner -- settle with the renter to  
18 figure this all out, but hopefully the -- the  
19 communication can help you answer some of those  
20 questions.

21 Thank you.

22 THE WITNESS: Thank you.

23 JUDGE HOBERG: Commissioner Cramer.

24

25

**FURTHER EXAMINATION**

1  
2 **BY COMMISSIONER CRAMER:**

3 Q. There's one other thing, Ralph, that  
4 occurs to me while I'm looking at you and I was  
5 thinking about the -- the testimony of Mr. Hennes  
6 earlier. In your days at Farmers Home, did you  
7 have this crazy of a relationship with the Fish &  
8 Wildlife Service that we heard described here  
9 today? I mean this is -- now you're testifying as  
10 an expert, mind you. Did that sound rational to  
11 you when he was testifying about these conditions?

12 A. Well, we've always had a little push on  
13 particularly wildlife. When I was with Farmers  
14 Home, we always had that, but I always felt the  
15 farmer came first. And if he was a good farmer and  
16 didn't destroy the wildlife when he didn't need  
17 to -- sometimes you need to destroy it to protect  
18 yourself. And that's all I'm saying.

19 COMMISSIONER CRAMER: Boy, you don't need  
20 to say any more. That was beautiful. Thank you.

21 JUDGE HOBERG: Thank you. Any further  
22 questions of Mr. Leet?

23 MS. SMITH: No, Your Honor.

24 JUDGE HOBERG: Thank you, Mr. Leet.

25 The next one I have on the list with a

1 positive yes is Rodney Peterson.

2 Mr. Peterson, you were here when I gave  
3 the admonition earlier?

4 MR. PETERSON: Yes.

5 (Witness sworn.)

6 JUDGE HOBERG: Thank you. And you're  
7 Rodney Peterson of Wilton?

8 MR. PETERSON: That's right.

9 JUDGE HOBERG: All right. What would you  
10 like to tell us, please?

11 **RODNEY PETERSON,**

12 having been first duly sworn, was examined and  
13 testified as follows:

14 **STATEMENT**

15 **BY MR. PETERSON:**

16 MR. PETERSON: Well, I'm here again. I  
17 was here at the last hearing. I'm questioning why  
18 you want to come from the southwest through  
19 pastureland, across my south section line, put two  
20 towers in my cropland, go on east, put two towers  
21 in my pasture and then go back south again?

22 They're avoiding one quarter of land to  
23 the south--it belongs to my good neighbor--but I  
24 know he doesn't want the line. So I know they're  
25 trying to avoid going on his. So they're going on

1 mine. They're going out of the way.

2 And that line will probably destroy a  
3 grove of native poplar trees, which will never come  
4 back, which can't be put back. And I just think  
5 it's wrong to -- why should I be sitting there, you  
6 might say, to dump on just to go back south again  
7 so you avoid one quarter of land?

8 And that's my -- my gripe or my concern.  
9 And I hope it can be rectified. It hasn't been  
10 yet. I've met with people many times, but they  
11 insist on just -- part of it will be hanging over  
12 on my neighbor's. I only have 90 feet between my  
13 property line and a big ravine with these trees,  
14 and for some reason that's where they think they  
15 have to go, besides putting two towers on my  
16 cropland, when they could be putting them all on  
17 pasture.

18 That's -- that's my concern.

19 JUDGE HOBERG: Thank you, Mr. Peterson.

20 Ms. Smith, did you have a question of --

21 MS. SMITH: I did not.

22 JUDGE HOBERG: All right. Might someone  
23 address this later?

24 MS. SMITH: We'll decide at the end of --

25 JUDGE HOBERG: Okay.

1 MS. SMITH: -- everyone to see --

2 JUDGE HOBERG: All right.

3 MS. SMITH: -- if we can figure out --

4 JUDGE HOBERG: All right.

5 MS. SMITH: -- who to address it.

6 MR. PETERSON: You didn't get the  
7 location. This is in Painted Woods Township.

8 JUDGE HOBERG: Painted Woods Township.

9 MR. PETERSON: Mm-hmm.

10 JUDGE HOBERG: Mr. Sagsveen, did you have  
11 any questions of Mr. Peterson?

12 MR. SAGSVEEN: I think, Your Honor, we  
13 want to figure out exactly --

14 JUDGE HOBERG: Sure.

15 MR. SAGSVEEN: -- where we're -- what  
16 we're looking at here.

17 MR. PETERSON: This is the south half of  
18 Section 14.

19 JUDGE HOBERG: In Painted Woods?

20 MR. PETERSON: In Painted Woods.

21 COMMISSIONER CLARK: Right after the river  
22 crossing.

23 MR. SAGSVEEN: Okay.

24 MR. PETERSON: Pardon?

25 COMMISSIONER CLARK: Right after the river

1 crossing; correct?

2 MR. PETERSON: Just east of the river  
3 crossing, a mile or two.

4 MR. SAGSVEEN: So I think it's on  
5 Exhibit E1; is that correct?

6 COMMISSIONER CLARK: Yes.

7 JUDGE HOBERG: Just give us a minute,  
8 Mr. Peterson.

9 MR. PETERSON: Sure.

10 JUDGE HOBERG: We're looking for it.

11 MR. SAGSVEEN: Your Honor, I don't have  
12 any questions for Mr. Peterson, but we might --  
13 we'll probably ask -- or Mr. Lein will probably ask  
14 Minnkota to come up and maybe provide a brief  
15 explanation of the jog.

16 JUDGE HOBERG: All right, why don't I ask  
17 them right now when we -- I don't know -- what  
18 witness would that be?

19 MS. SMITH: Can we just -- after we're  
20 done with all of the public, can I have a chance to  
21 talk with Minnkota?

22 JUDGE HOBERG: Exactly. That's what I'm  
23 talking about.

24 MS. SMITH: Would that be okay?

25 JUDGE HOBERG: Yeah. Right. Right.

1 MS. SMITH: Yeah. We will provide someone  
2 to address that.

3 JUDGE HOBERG: All right. Thank you.

4 Commissioner Clark, do you have any  
5 questions of Mr. Peterson?

6 COMMISSIONER CLARK: Just one.

7 **EXAMINATION**

8 **BY COMMISSIONER CLARK:**

9 Q. I recall your original testimony from last  
10 year --

11 A. Yes.

12 Q. -- and I believe we had some pictures that  
13 were provided --

14 A. That's right.

15 Q. -- along with that.

16 Were there any modifications that were  
17 made between now and then or is this still exactly  
18 the same?

19 A. They made -- they made a modification.  
20 They went closer to the property line --

21 Q. Okay.

22 A. -- to the south.

23 But still my trees come out in that  
24 right-of-way and I still get the two towers in  
25 my -- my cropland. Just so the south is all

1 pasture and then you go back south again, so it  
2 just boggles my mind.

3 COMMISSIONER CLARK: Okay. Thank you,  
4 Mr. Peterson.

5 JUDGE HOBERG: Thank you.  
6 Commissioner Cramer, please.

7 **EXAMINATION**

8 **BY COMMISSIONER CRAMER:**

9 Q. Just so I'm clear, is the cropland and the  
10 pastureland that you're talking about both -- does  
11 it both belong to you?

12 A. Yes.

13 Q. So you're a willing landowner if they  
14 would just stay off the cropland but on the  
15 pastureland?

16 A. Well, then they'd still be making a jog to  
17 come up in my pasture because my cropland is west  
18 of the pasture.

19 Q. I see.

20 A. So they're coming up on an angle to avoid  
21 the corner of the south quarter and they angle off  
22 again just to avoid that quarter. I have nothing  
23 against my neighbor. I respect his rights, but --

24 JUDGE HOBERG: Thank you.

25 COMMISSIONER CRAMER: I have nothing

1 further.

2 JUDGE HOBERG: Thank you, Commissioner  
3 Cramer.

4 COMMISSIONER CRAMER: We'll get to the --

5 MR. PETERSON: Thank you.

6 JUDGE HOBERG: Commissioner Kalk, please.

7 **EXAMINATION**

8 **BY COMMISSIONER KALK:**

9 Q. Thank you, Rodney, for your testimony.  
10 You obviously talked to the company. Did they give  
11 you any reason why they wouldn't consider moving  
12 it? I mean I would assume they --

13 A. Yes.

14 Q. -- must have had something they told you.

15 A. Yes. Because they couldn't negotiate  
16 any -- anything with my neighbor. They haven't  
17 negotiated with me, either, but -- but they insist  
18 on leaving it on mine, which I feel that they're  
19 going out of their way to do.

20 Q. Did you ever get anything -- anything  
21 written back from the company as to why they  
22 wouldn't address your concerns?

23 A. No.

24 COMMISSIONER KALK: Okay. Thank you.

25 JUDGE HOBERG: Thank you, Commissioner.

1           Anything further? Any further questions  
2 of Mr. Peterson?

3           MS. SMITH: No, Your Honor.

4           JUDGE HOBERG: Thank you, Mr. Peterson.

5           MR. PETERSON: Thank you.

6           JUDGE HOBERG: Okay. I don't see any  
7 other yeses. I see a lot of possibly's and  
8 question marks. I think I'll go to the possibly  
9 first. Basara -- a Myron Basara; am I pronouncing  
10 that right? Did you wish to testify?

11           Maybe you could state your name for the  
12 record and spell it for us, please.

13           MR. BASARABA: Myron Basaraba.

14           JUDGE HOBERG: Basaraba. Okay.

15           MR. BASARABA: B-a-s-a-r-a-b-a.

16           JUDGE HOBERG: Thank you. And you're from  
17 Wilton?

18           MR. BASARABA: Wilton.

19           JUDGE HOBERG: Wilton.

20           MR. BASARABA: Okay. My -- my concern --

21           JUDGE HOBERG: Just a minute. I do need  
22 to swear you in. All -- all testimony has to be  
23 under oath at the hearing. So did you hear the  
24 admonition I gave in regard to perjury earlier?

25           MR. BASARABA: Yes.

1 (Witness sworn.)

2 JUDGE HOBERG: Thank you. Please.

3 **MYRON BASARABA,**

4 having been first duly sworn, was examined and  
5 testified as follows:

6 **STATEMENT**

7 **BY MR. BASARABA:**

8 MR. BASARABA: Okay. I think we can --  
9 three of us are here kind of on the same concern.  
10 It's the area east -- west of Highway 41,  
11 probably -- I don't know if there's -- it's  
12 probably four miles. It shows the houses of  
13 myself; the neighbor to the west of me, which are  
14 Tibkes, they have just recently bought this; my  
15 brother, who lives to the east of me; and his son,  
16 who lives there too.

17 In looking at the route now, it looks like  
18 it has been -- I guess first I should back up and  
19 say that I've heard there was testimony to move it  
20 north from the proposed route by a couple of  
21 farmers, and I don't know if it was ever  
22 considered. But as I see the map, it's back that  
23 three-quarters of a mile from me to the south.

24 And I'm just -- we're wondering is that  
25 the established route now or not? And that would

1 take care of actually four of us that have  
2 questions.

3 JUDGE HOBERG: Have you located that,  
4 anybody?

5 COMMISSIONER CLARK: If we could maybe  
6 just have -- if you could just describe the --

7 MR. BASARABA: It's 37451 McLean County  
8 29, or don't you have the --

9 COMMISSIONER CLARK: Well, ours -- it  
10 would be best if you have, you know, township,  
11 range.

12 MR. BASARABA: 143-80. 11-143-80.

13 COMMISSIONER CLARK: Okay. So 143 North,  
14 80 West. You said the area just to the west of 41?

15 MR. BASARABA: Well, it would be starting  
16 at a half mile -- well, a mile west would be my  
17 brother's place -- or a mile and an eighth, and  
18 then it would be my nephew's place. And mine would  
19 be two miles west of 41 and my neighbors' would be  
20 three miles west of 41. And we're just  
21 wondering --

22 JUDGE HOBERG: What's the township and  
23 range again?

24 MR. BASARABA: 143 -- 11-143-80.

25 JUDGE HOBERG: Okay.



1 or I had heard was that a couple of farmers wanted  
2 to move it a half a mile north. Okay. And then as  
3 I look at the map, it doesn't show it there. It  
4 shows it three-quarters of a mile south of us. And  
5 I'm wondering is that the route now. Is that still  
6 proposed or is it -- is it the route?

7 COMMISSIONER CLARK: Yeah. I think the  
8 company can probably answer it at the appropriate  
9 time. I can --

10 JUDGE HOBERG: Right. Is that something  
11 you can address, Ms. Smith?

12 MS. SMITH: I can say that the route  
13 that's proposed is the route that's depicted in the  
14 exhibits --

15 JUDGE HOBERG: Right.

16 MS. SMITH: -- that you're looking at.

17 MR. BASARABA: Okay. And just one more  
18 item. I believe the man that owns the property  
19 straight south of us is here, and I think I  
20 understand he'd like it changed. So we're going to  
21 have to deal with that part of it, too, when that  
22 guy speaks, so -- but we're just wondering is that  
23 the route.

24 JUDGE HOBERG: It is the route.

25 MR. BASARABA: Okay.

1 JUDGE HOBERG: Yes.

2 MR. BASARABA: Cool.

3 JUDGE HOBERG: All right. Any -- any  
4 questions of Mr. Basaraba?

5 MS. SMITH: No, Your Honor.

6 JUDGE HOBERG: Mr. Sagsveen?

7 MR. SAGSVEEN: No, Your Honor.

8 JUDGE HOBERG: Commissioner Clark?

9 COMMISSIONER CLARK: No questions, but  
10 thank you for testifying.

11 JUDGE HOBERG: Commissioner --

12 COMMISSIONER CRAMER: Yes. Thank you.

13 JUDGE HOBERG: Thank you, Mr. Basaraba.

14 All right. Then I'll go down the line  
15 with those who have indicated question marks. Doug  
16 Hruby, do you wish to testify?

17 MR. HRUBY: My name is Douglas Hruby.

18 JUDGE HOBERG: All right. Mr. --

19 MR. HRUBY: My last name is spelled  
20 H-r-u-b-y.

21 JUDGE HOBERG: Thank you. Mr. Hruby, did  
22 you hear the admonition I gave earlier in regard to  
23 perjury?

24 MR. HRUBY: Yes.

25 (Witness sworn.)

1 JUDGE HOBERG: Thank you. Please proceed.

2 DOUGLAS HRUBY,

3 having been first duly sworn, was examined and  
4 testified as follows:

5 STATEMENT

6 BY MR. HRUBY:

7 MR. HRUBY: First of all, I'd like to  
8 thank our commissioners for the job you've done.  
9 It's obviously -- I guess it's far more -- it's  
10 overwhelming to see what's going on here, and  
11 I'm -- when you talk about shovel ready, I'm  
12 usually on the other end of a shovel.

13 One question that I had in mind  
14 Commissioner Clark did partially answer it. I  
15 would like him to -- some of you to elaborate on  
16 it. What is the parameters of the authority of the  
17 Public Service Commission in regard to this, and  
18 when it does come into the question of the value of  
19 the property, not only present but also going  
20 forward, why does not the Public Service Commission  
21 as our -- our representatives have the authority to  
22 have some jurisdiction over the ability of  
23 companies to come in with possibly eminent domain?

24 JUDGE HOBERG: I think as Commissioner  
25 Clark explained, it's a matter of statute and law

1 and -- and subsequent authority that the Commission  
2 would have under the law that they do not have that  
3 authority. I guess that's correct.

4 COMMISSIONER CLARK: Yeah. That's pretty  
5 much it. There's -- there is one limited instance  
6 where the -- the Commission in theory can take into  
7 consideration landowner negotiation issues, which  
8 is there's a little provision of law -- and I can't  
9 remember what the statute reads -- but if a group  
10 of landowners felt that they were being intimidated  
11 by a project developer, utility company, something  
12 like that, basically that the company was acting in  
13 bad faith, and the statute lists all the things  
14 that that includes, that in those cases a group of  
15 landowners can go to a judge and the judge can  
16 order that that sort of information be included in  
17 our record. But that's -- that's really the only  
18 place that that exists.

19 In North Dakota under the law eminent  
20 domain is separate from Public Service Commission  
21 proceedings and the valuation of land is ultimately  
22 up to a -- to a court to decide. So it would have  
23 to take a legislative change to change that.

24 MR. HRUBY: Okay. My next question for  
25 the Public Service Commission would be in the

1 course of this -- the development of this project,  
2 the Milton R. Young plant changed hands or  
3 partially changed hands and that was something that  
4 went through the Public Service Commission, and the  
5 timing of that in reference to the timing of the  
6 development of this power line, somehow I don't  
7 know if the cart -- the horse got before -- behind  
8 the cart here or why is it -- how was it developed  
9 like this or was there an economic reason for that  
10 plant to be sold or for ownership to be changed?

11 JUDGE HOBERG: Commissioner Cramer, is  
12 this --

13 COMMISSIONER CLARK: Either one.

14 COMMISSIONER CRAMER: Yeah, I can give it  
15 my best. Sort of the -- I'll call it the politics  
16 that surrounds that is that Minnesota Power takes  
17 and -- took a good deal of the energy off of the  
18 Milton Young station for their servicing their  
19 customers in Minnesota.

20 As you probably know, Minnesota has a very  
21 high standard for renewable energy, 25 percent in  
22 the case of Minnesota Power by the year 2025. So  
23 Minnesota Power has need for more wind energy. And  
24 Minnkota Power has a need for more energy of  
25 whatever type; right?

1           And so what they did is they did a swap.  
2           By the way, we didn't have any jurisdiction over  
3           the transfer of ownership of -- of the power plant.  
4           Our involvement is specifically to this project and  
5           then to some wind projects that we site, as well,  
6           for Minnesota Power.

7           But in order -- Minnesota Power owns  
8           another transmission line that's a DC, or direct  
9           circuit, line that goes from Center directly to  
10          Duluth, where it's then distributed to their  
11          customers. That line is being converted to a  
12          wind-specific line, and Minnesota Power's building  
13          out a lot of wind development in the Center area,  
14          in Oliver and Morton Counties.

15          That means that there's got to be another  
16          line to take the power that's generated by the  
17          Milton Young stations to Grand Forks for Minnkota's  
18          use. So there's a growing demand to the east for  
19          the power.

20          The particular situation you speak of was  
21          a swap that was designed to maximize the  
22          opportunity of existing assets and the potential  
23          for new assets.

24          So it was a little bit of, I suppose, an  
25          odd relationship in a sense, but it was also, in my

1 view anyway, Doug, a pretty reasonable solution to  
2 a problem, because as you might imagine, building a  
3 transmission line from Center to Duluth is much  
4 more complicated than building one from Center to  
5 Grand Forks. I mean obviously it's half the  
6 distance, not to mention it's a single-state  
7 jurisdiction.

8 I -- I hope I described that -- maybe you  
9 guys want to --

10 COMMISSIONER CLARK: The only thing that I  
11 would add, just to highlight something Kevin  
12 mentioned, which is just the Commission  
13 jurisdiction over it, which in -- in any of these  
14 projects Commission jurisdiction would just be the  
15 siting portion of it, the actual environmental  
16 impact of the infrastructure on the land; whereas  
17 the actually regulatory authority of the swap and  
18 all of that, because Minnkota's a co-op and isn't  
19 regulated by the Commission and Minnesota Power is  
20 a Minnesota-based utility and doesn't serve any  
21 customers in North Dakota, we wouldn't have any  
22 authority over that -- that swap or the exchange of  
23 the power plant. Now, it would have been a  
24 different situation if it was MDU involved with a  
25 plant and they were buying assets or selling them

1 or Otter Tail or Xcel, but --

2 MR. HRUBY: And this would lead me up to  
3 my next question. Now, down the road in the  
4 future, now these are co-ops that we are dealing  
5 with right now and they operate under certain  
6 parameters within our structure of our tax code and  
7 whatever else would be. But what is the  
8 possibility of this possibly being bought out or  
9 transferred in ownership to a private entity in the  
10 future and what -- how would that affect we, the  
11 landowners, who give a lease for property that  
12 could possibly in the future be passed over to  
13 private ownership?

14 JUDGE HOBERG: Commissioners, did you want  
15 to address that? It's to some extent speculation  
16 as to --

17 COMMISSIONER CLARK: Yeah. I think it'd  
18 be -- yeah, it would be speculation. You'd have to  
19 ask the companies if that's -- if that's --

20 COMMISSIONER KALK: Your Honor, if I --

21 COMMISSIONER CLARK: -- been contemplated.

22 COMMISSIONER KALK: -- if I could, I just  
23 wanted to throw a comment for the last one is that  
24 you're talking about, you know, what line's going  
25 here and what line's going there. One of the

1 questions during this first round of hearings that  
2 I talked a lot about and asked a lot of questions  
3 about, what is the value of this line to North  
4 Dakotans that is crossing through your land and  
5 this region? And one thing that came really clear,  
6 this -- when we did all the corridor hearings is  
7 that we don't have enough transmission lines in  
8 this northern part of North Dakota. The -- the  
9 reliability that will come out of this line will  
10 benefit the whole region.

11 Now, it's true some -- a big chunk of the  
12 power is going to Minnesota, but the fact that  
13 there really was the only one major line from Minot  
14 going to Grand Forks prior to this line hopefully  
15 being built and the other one, there's just --  
16 there wasn't enough major transmission here. So  
17 there's going to be a benefit to North Dakota on  
18 this down the road.

19 But the questions you bring up are what  
20 make it very challenging, the multi jurisdictions,  
21 what's going on at different agencies. So it's  
22 important that we kind of all step back a little  
23 bit and think that we're all going to benefit from  
24 this line, but the siting part is the most  
25 difficult part we do because it's going to go on

1 somebody's property and that's why we're getting  
2 these concerns out front that we can try to figure  
3 out what's the -- the best, if you will, to define  
4 it. That's why we're here today.

5 COMMISSIONER CRAMER: Doug, it is  
6 interesting, speaking of our jurisdiction, where --  
7 Tony's right that our jurisdiction specific to this  
8 project or to co-ops is really specific to the  
9 environmental protection and as well as human  
10 welfare.

11 You've -- you heard in the very early  
12 testimony and we heard more of it in the corridor  
13 certificate testimony that the company does make a  
14 case for the need for it, and that speaks a little  
15 bit to siting because one of the notice criteria,  
16 of course, is the efficient use of the resources.

17 So there's a lot that goes into it beyond  
18 just simply, you know, are we protecting bald  
19 eagles and whooping cranes and farmers, but it's --  
20 but that is -- it is pretty well confined to that.

21 JUDGE HOBERG: Thank you, Commissioners.

22 Does that pretty much answer your  
23 questions, Mr. --

24 MR. HRUBY: Yeah. I guess I'd probably  
25 like to follow up with a little bit of a statement.

1 You know, I did want to bring up the wildlife  
2 issue. It seems like wildlife takes a second -- I  
3 mean it's -- we're in the back seat compared to  
4 wildlife all the way around, environmental issues.

5 The -- I want to thank you, Commissioner  
6 Cramer, for elaborating on the 3.8 million for the  
7 whooping crane. It probably doesn't do much good,  
8 but when you take \$3.8 million worth of --

9 JUDGE HOBERG: Investment.

10 MR. HRUBY: -- consumer investment --

11 COMMISSIONER CRAMER: Right.

12 MR. HRUBY: -- to -- for something that is  
13 really out in the clouds and we have a lot of stuff  
14 right on the ground with a lot more economic value  
15 to our state than those whooping cranes. And, I'm  
16 sorry, but the -- the equity -- it's just not  
17 equitable what they're offering as a compensation.  
18 And I want to make sure that if I'm going to donate  
19 my land rights for the benefit of society, I want  
20 to make sure that a private entity does not  
21 profiteer from it, so --

22 JUDGE HOBERG: Thank you, Mr. Hrubby.

23 Any --

24 MR. HRUBY: Thank you.

25 JUDGE HOBERG: Any additional questions of

1 Mr. Hruby?

2 MS. SMITH: No, Your Honor.

3 JUDGE HOBERG: Thank you, Mr. Hruby.

4 All right. Let's see here. Does Ryan  
5 Weber still wish to testify?

6 And, Mr. Weber, you're from Center?

7 MR. WEBER: Yes.

8 JUDGE HOBERG: Did you hear the admonition  
9 I gave earlier in regard to perjury?

10 MR. WEBER: Yes.

11 (Witness sworn.)

12 JUDGE HOBERG: Thank you. Please.

13 **RYAN WEBER,**

14 having been first duly sworn, was examined and  
15 testified as follows:

16 **STATEMENT**

17 **BY MR. WEBER:**

18 MR. WEBER: Okay. I guess I got a  
19 question on the G1 Oliver County map there. You  
20 guys curved the line south to avoid a residence,  
21 but it's -- it's a little over 500 feet away from  
22 it. And I guess I've got a question about that, if  
23 you're so worried about environment, why you'd move  
24 it off of a county road so far and have that much  
25 more impact?

1 JUDGE HOBERG: You're talking about  
2 Exhibit --

3 MR. WEBER: G1.

4 JUDGE HOBERG: -- G1?

5 MR. WEBER: Yes.

6 COMMISSIONER CLARK: Okay.

7 JUDGE HOBERG: I don't know. Ms. Smith,  
8 is that something that --

9 MS. SMITH: I think I'd have to hear the  
10 question again. I'm not sure --

11 JUDGE HOBERG: Okay. Would you repeat the  
12 question, please, Mr. Weber?

13 MR. WEBER: Well, to our understanding,  
14 they were -- they had it staked out right along the  
15 road right-of-way where they were going to put the  
16 power transmission line and then they curved it  
17 south, I mean, all them extra jogs. Then they  
18 recurved it back north just to avoid one residence  
19 that's a little over 500 feet from the line.

20 JUDGE HOBERG: Okay. That appears to be  
21 correct. And you're wondering why they did that?

22 MR. WEBER: Yeah. And if they're worried  
23 about the residence, why wouldn't they go around  
24 the north of the residence? I mean why would they  
25 curve it so far south just to avoid it.

1                   JUDGE HOBERG: Perhaps that's something  
2 that could be addressed in the rebuttal, Ms. Smith?

3                   MS. SMITH: Mm-hmm.

4                   JUDGE HOBERG: I don't know that --  
5 there's not a witness on the stand right now to  
6 answer it, Mr. Weber, but --

7                   MR. WEBER: Okay. But it seems like it  
8 would impact a lot more environment by going that  
9 way, but --

10                   Then he talked about take -- he did it  
11 because of the least amount of cropland, but if  
12 they would keep it right on the north side of the  
13 road, it wouldn't be any more cropland, in my  
14 opinion, because they're going through a whole mile  
15 of -- one section of cropland.

16                   JUDGE HOBERG: Okay.

17                   MR. WEBER: And then I guess the other  
18 issue is part of the payments. It's -- for  
19 99 years it just seems unreasonable. I mean what  
20 they're offering is maybe something for the  
21 construction phase of it, but then there needs to  
22 be a yearly lease because -- I mean this isn't a  
23 one-time deal and they never -- we got power lines  
24 already that we actually -- they're there for free.  
25 We never, ever received anything from it. We

1 bought the land after they were put up.

2 And they continually come back for  
3 maintenance and whatever, use your right-of-ways.  
4 They -- they never follow their right-of-way. They  
5 don't seem to put it in a spot where they can  
6 access it right on their right-of-way.

7 Then when they have maintenance or when  
8 ice takes them down, they just shoot across your  
9 land with no regard to you and don't even have --  
10 they don't even tell you that they're going to do  
11 it. Or they take their -- like what happened to  
12 us, power lines went down, the structures crumbled  
13 there, they had to go in and it was soft and they  
14 just crossed wherever. And they even had to take  
15 the old structures out and crossed the land with  
16 the old structures and -- where they could have  
17 stayed until the land got dryer and just worried  
18 about replacing the structures, but they had to  
19 haul all the old structure out and then bring all  
20 the new structure in.

21 JUDGE HOBERG: You're not talking about  
22 Minnkota now? You're talking about existing power  
23 lines; correct?

24 MR. WEBER: Well, it's Minnkota.

25 JUDGE HOBERG: It is Minnkota. Okay.

1 MR. WEBER: Same company, yeah.

2 JUDGE HOBERG: Okay.

3 MR. WEBER: And that's why I think we need  
4 like a yearly lease for it, I mean, because they're  
5 continually coming, maintenance, two, three times a  
6 year. I mean you always -- it's not like it's just  
7 there and done with.

8 JUDGE HOBERG: All right.

9 MR. WEBER: I guess that's --

10 JUDGE HOBERG: Thank you, Mr. Weber.

11 Ms. Smith, did you have any questions?

12 MS. SMITH: I do not.

13 JUDGE HOBERG: Mr. Sagsveen?

14 MR. SAGSVEEN: No, Your Honor.

15 JUDGE HOBERG: Commissioner Clark?

16 COMMISSIONER CLARK: No, but thank you for  
17 testifying.

18 MR. WEBER: Okay.

19 JUDGE HOBERG: Commissioner Cramer?

20 COMMISSIONER CRAMER: Just thank you.

21 JUDGE HOBERG: Commissioner Kalk?

22 COMMISSIONER KALK: Just a quick --

23 JUDGE HOBERG: Just a minute, Mr. Weber.

24 COMMISSIONER KALK: Ryan, just a quick  
25 question for you.

**EXAMINATION**

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**BY COMMISSIONER KALK:**

Q. So when this does happen, do you notify someone with Minnkota?

A. Yeah, we have, but --

Q. So who do you -- who -- who would you have called on those pre -- not -- I know it's not something we're talking about today, but just for information's sake, so if you have a concern with Minnkota, who do you call?

A. Well, the only guy we really talk to is Paul Meland.

COMMISSIONER KALK: Okay. All right. Thank you.

JUDGE HOBERG: Thank you, Mr. Weber.

MR. WEBER: Okay.

JUDGE HOBERG: Let's see. Jerry Weber, did you wish to testify? No?

All right. Mel Schlafman, did you wish to testify? Mel Schlafman? Not here any longer?

Bruce Hansen. And, Mr. Hansen, you're from Wilton?

MR. HANSEN: I'm from Wilton.

JUDGE HOBERG: Just hold it. I need to swear you in.

1 MR. HANSEN: Yep.

2 JUDGE HOBERG: Did you hear the admonition  
3 I gave earlier in regard to perjury?

4 MR. HANSEN: Yes, I did.

5 (Witness sworn.)

6 JUDGE HOBERG: Thank you. Please proceed.

7 **BRUCE HANSEN,**

8 having been first duly sworn, was examined and  
9 testified as follows:

10 **STATEMENT**

11 **BY MR. HANSEN:**

12 MR. HANSEN: I'm a landowner adjacent to  
13 Rodney Peterson's, Painted Woods Township. We own  
14 the land in 23 and Section 13. A couple reasons we  
15 didn't want no power line on our land, we already  
16 have an existing power line on 23 from another  
17 cooperative. We got a one-time deal payment for  
18 each tower, \$75. Now we have to live with it, farm  
19 around it.

20 I guess that's a lot of it right there. I  
21 don't care to have any more on our land, so I guess  
22 I thought maybe they could have updated their  
23 existing towers. They had easements there, but I  
24 realize a lot of that goes straight east and the  
25 demand for the electricity is northwest Minnesota,

1 but -- so --

2 JUDGE HOBERG: Thank you, Mr. Hansen.

3 Anything further you wanted to say or --

4 MR. HANSEN: No.

5 JUDGE HOBERG: Okay. Ms. Smith, do you  
6 have any questions of Mr. Hansen?

7 MS. SMITH: I do not. Thank you.

8 JUDGE HOBERG: Mr. Sagsveen?

9 MR. SAGSVEEN: I don't think so.

10 **EXAMINATION**

11 **BY MR. SAGSVEEN:**

12 Q. Well, it's Section 23 and 13 right next to  
13 Mr. Peterson?

14 A. That's correct.

15 MR. SAGSVEEN: I don't have any questions.

16 JUDGE HOBERG: Thank you.

17 Commissioner Cramer -- or Commissioner  
18 Clark, please.

19 COMMISSIONER CLARK: No, I'm good. Thank  
20 you.

21 COMMISSIONER CRAMER: I have none. Thank  
22 you.

23 JUDGE HOBERG: Commissioner Kalk.

24 COMMISSIONER KALK: Thank you.

25 JUDGE HOBERG: Thank you, Mr. Hansen.

1 MR. HANSEN: Okay. Thank you.

2 JUDGE HOBERG: Bill Hansen? No? Okay.  
3 All right. Let's see here. Shawn Tibke? Am I  
4 getting that -- I'm not sure about the spelling.  
5 Shawn Tibke, no? Josh Basaraba.

6 MR. HANSEN: I think they left.

7 JUDGE HOBERG: They left. Okay. Let's  
8 see. Larry Stevahn?

9 MR. STEVAHN: Stevahn.

10 JUDGE HOBERG: Stevahn.

11 MR. STEVAHN: Stevahn it's pronounced.

12 JUDGE HOBERG: Stevahn. Okay. I'm not  
13 always that great at pronouncing. I'm sorry about  
14 that.

15 MR. STEVAHN: The Germans all say Stevahn,  
16 so --

17 JUDGE HOBERG: Okay. It's -- it's Larry  
18 Stevahn, S-t-e-v-a-h-n; right?

19 MR. STEVAHN: Right.

20 JUDGE HOBERG: And you're from Bismarck?

21 MR. STEVAHN: Right.

22 JUDGE HOBERG: Did you hear the admonition  
23 I gave earlier in regards to perjury?

24 MR. STEVAHN: Yes, I did.

25 (Witness sworn.)

1 JUDGE HOBERG: Thank you. Please proceed.

2 LARRY STEVAHN,

3 having been first duly sworn, was examined and  
4 testified as follows:

5 STATEMENT

6 BY MR. STEVAHN:

7 MR. STEVAHN: My question is with the  
8 information coming out last year when you had the  
9 hearing, I represent the life estate and there's  
10 three other parties involved. One of the parties  
11 that lives in another state had gotten a letter  
12 about the hearing. I never did. And so I found  
13 out about it backdoor. I contacted them and they  
14 said they'd keep me up to date.

15 I happened to run across the announcement  
16 for the hearing today in the paper last month.  
17 That's the only notice we've ever gotten.

18 Is this the way it's going to be when they  
19 do construction, that we find out after the fact?

20 JUDGE HOBERG: Ms. Smith, is that  
21 something you can address or --

22 MS. SMITH: I think we may have already  
23 addressed that, but if we need to, we will address  
24 it in our rebuttal.

25 JUDGE HOBERG: All right. Okay. Okay. I

1 think they're going to address that in rebuttal.

2 MR. STEVAHN: Okay.

3 JUDGE HOBERG: That's all you have?

4 MR. STEVAHN: That's all.

5 JUDGE HOBERG: All right.

6 MR. STEVAHN: Thank you.

7 JUDGE HOBERG: Any questions?

8 Mr. Sagsveen.

9

**EXAMINATION**

10 **BY MR. SAGSVEEN:**

11 Q. You said you represent the life estate.  
12 Do you -- could you -- have you seen on any of  
13 these maps where --

14 A. Yes.

15 Q. -- that property is located?

16 A. It's up in Sheridan County. It's for  
17 Elvina Kluck and she's in a nursing home. We  
18 currently have power of attorney for everything,  
19 and so I'd like stuff to come to me instead of  
20 coming in through the other people.

21 Q. Was that piece of property identified in  
22 any of the maps?

23 A. I believe it is on one of them. It's in  
24 Sheridan County, about four or five miles north of  
25 Pickardville, north of 200.

1 JUDGE HOBERG: Probably E3.

2 Q. (MR. SAGSVEEN CONTINUING) Do you have  
3 the -- do you know the township and range?

4 A. Offhand I don't, no.

5 Q. Is it Pickard Township?

6 A. No. It's in --

7 Q. Prophets or Wise?

8 A. Not Prophets. It's the next one to it.

9 Q. Mountain City?

10 A. Mountain View. Mountain View.

11 COMMISSIONER CLARK: Just north of  
12 McClusky?

13 THE WITNESS: Yes. Northwest.

14 Q. (MR. SAGSVEEN CONTINUING) Is it along the  
15 McClusky -- oh, okay.

16 A. The McClusky Canal is to the east of us  
17 about two miles.

18 Q. Okay. Is there a residence located --

19 A. No, there's no residence there. It's a --  
20 a neighbor's farming it and -- but it's just the  
21 idea, I'd like to have info when things are  
22 happening, even for hearings and things that -- I  
23 think it would be a common courtesy, so --

24 MR. SAGSVEEN: Okay.

25 JUDGE HOBERG: Okay. Thank you,

1 Mr. Stevahn.

2 COMMISSIONER CLARK: Just a real quick  
3 question.

4 JUDGE HOBERG: Yes, Commissioner.

5 **EXAMINATION**

6 **BY COMMISSIONER CLARK:**

7 Q. So any of the easements that would need to  
8 be signed, so on and so forth, would they go  
9 through you being that you have power of attorney  
10 or --

11 A. They contact me and then they send them  
12 out to each person, also, because of the life  
13 estate. Each person has to sign it.

14 Q. Okay.

15 A. And that's how everything is run.

16 COMMISSIONER CLARK: Okay. Thank you.

17 JUDGE HOBERG: Thank you. LaMoyne  
18 Vossler? No longer present. Travis Houn? No?  
19 Sheila Braun?

20 Ms. Braun, did you hear the admonition I  
21 gave earlier in regard to perjury?

22 MS. BRAUN: Yes.

23 (Witness sworn.)

24 JUDGE HOBERG: Thank you.

25 And you're Sheila Braun from Menoken?

1 MS. BRAUN: Mm-hmm.

2 JUDGE HOBERG: Is that B-r-a-u-n?

3 MS. BRAUN: Correct.

4 JUDGE HOBERG: All right. Please proceed.

5 **SHEILA BRAUN,**

6 having been first duly sworn, was examined and

7 testified as follows:

8 **STATEMENT**

9 **BY MS. BRAUN:**

10 MS. BRAUN: I guess I just want to give my  
11 opinion in saying this whole line is wrong. You're  
12 taking advantage of the farmers. You're not  
13 stating the health issues, not only to the animals,  
14 but to the people themselves. If you go on-line,  
15 you can find this information yourself.

16 You're dealing with the farmers like they  
17 don't have a mind. You're taking away from them  
18 something they sweat over. You're taking advantage  
19 of the elderly and harassing them and that's wrong.

20 You're doing it for reasons of greed.  
21 You're not looking out for the North Dakota people.  
22 You're more concerned about the wildlife than you  
23 are the people themselves. And this is wrong.

24 JUDGE HOBERG: Thank you. Do you have  
25 anything further? No?

1 MS. BRAUN: No. I'm just sorry I wasn't  
2 in on -- on the earlier meetings because this is  
3 not right, because you're basically stealing stuff  
4 that people have sweat over, prayed over, cried  
5 over and went without over, and that's wrong.  
6 You're forgetting the people.

7 JUDGE HOBERG: Thank you, Ms. Braun.  
8 Ms. Smith, did you have any questions?

9 MS. SMITH: No, Your Honor.

10 JUDGE HOBERG: Mr. Sagsveen?

11 MR. SAGSVEEN: No, Your Honor.

12 JUDGE HOBERG: Commissioner Clark?

13 COMMISSIONER CLARK: No. Thank you.

14 JUDGE HOBERG: Commissioner Cramer?

15 COMMISSIONER CRAMER: Just thank you.

16 JUDGE HOBERG: Commissioner Kalk?

17 COMMISSIONER KALK: Thank you for your  
18 testimony.

19 JUDGE HOBERG: Thank you, Ms. Braun.

20 I don't see anyone else that indicated  
21 they wanted to testify. However, I'll ask is there  
22 anyone else who wishes to testify before the  
23 Commission in regard to this matter today? No one  
24 else?

25 And thank you very much for your

1 participation, those of you who testified. The  
2 commissioners appreciate that.

3 Should we take just a couple minutes so  
4 you can determine what kind of rebuttal you want to  
5 make?

6 MS. SMITH: Yes, please.

7 JUDGE HOBERG: Let's take about five  
8 minutes.

9 (Recessed at 12:01 p.m. to 12:13 p.m.)

10 JUDGE HOBERG: All right. Let's go back  
11 on the record.

12 We've taken a recess to give the applicant  
13 time to prepare its rebuttal response.

14 Ms. Smith, did you wish to call any  
15 witnesses?

16 MS. SMITH: Yeah. If we could call Duane  
17 Phillips back to the stand.

18 JUDGE HOBERG: Mr. Phillips, please.

19 And I don't need to swear you in. You're  
20 still considered to be under oath, Mr. Phillips,  
21 having already been sworn.

22 Ms. Smith, please.

23 MS. SMITH: Thank you.  
24  
25

1                                   **DUANE PHILLIPS,**

2           having been previously duly sworn, was examined and  
3           testified as follows:

4   **REBUTTAL EXAMINATION**

5           **BY MS. SMITH:**

6           Q.     Mr. Phillips, if you could first address  
7           the comments made by Mr. Peterson and explain a  
8           little bit for the Commission why the line is  
9           located where it is.

10          A.     Absolutely. Mr. Peterson did -- did raise  
11          these concerns during the corridor compatibility  
12          hearings that we did and we did address those  
13          during those hearings, so -- but I can go over the  
14          highlights of that again as well.

15                   The original route alignment through  
16          Painted Woods Township paralleled the Missouri  
17          River on the east side of -- of the highway, I  
18          believe it's 1804 on that side of the road -- on  
19          that side of the Missouri River. There was a  
20          meeting with Painted Woods Township that they  
21          asked -- that they asked to meet with us to talk  
22          about that -- that route selection. That was on  
23          December 18 of 2010.

24                   And at that meeting the landowners  
25          involved with -- with the original alignment that

1 we had where we had placed the corridor had asked  
2 us if we could consider going east and then going  
3 north instead of paralleling the river going north  
4 and then eventually turning east. So it was a  
5 mutually discussed item between Minnkota Power and  
6 Painted Woods Township. Mr. Peterson was at that  
7 meeting.

8           And at that time the majority of the  
9 landowners that were along the alignment that we  
10 have now were favorable to that alignment, so  
11 that's -- that's kind of where we shifted the  
12 corridor based on that rationale and based on that  
13 meeting and the request of Painted Woods Township.

14           Since then, in terms of a route selection,  
15 one of the challenges that we have through that  
16 area is there are two gullies or low-lying areas,  
17 one that goes through Section 14 and one that goes  
18 through Section 13.

19           So taking into consideration the land use  
20 through that area, the request of Painted Woods  
21 Township and also taking a look at -- at the  
22 crossing of those two gully areas that had the  
23 least amount of impact through there is why we have  
24 the route -- the route centerline placed where it  
25 is, especially for the one that goes through

1 Section 14 on the west side. That was -- that  
2 was -- that was the one that would remove the least  
3 amount of trees, if any, that were in that area.

4 Q. And I believe there was an exhibit that  
5 was used during the corridor hearings, Exhibit 23,  
6 and I do have -- I have one copy at least here and  
7 I can show it to you and then I will pass it to  
8 Mr. Sagsveen and then also the commissioners so  
9 that they can see what we're talking about before  
10 we go into discussing that.

11 A. Okay.

12 Q. Now, you had mentioned trees and trying to  
13 reduce impact on the trees. Could you explain what  
14 you were referencing using Exhibit 23?

15 A. Yes. And I don't have the exact exhibit  
16 in front of me, but I think I remember it well  
17 enough to kind of -- to kind of walk through that.  
18 That -- that was an exhibit that showed what we  
19 were thinking about at that time and what we're  
20 proposing now as the route centerline to go through  
21 the southern portion of Section 14.

22 And there was one picture in particular  
23 that has an orange lath in there. That orange lath  
24 depicts where we would -- where we would put one of  
25 the structure locations. And then there's a

1 westward-looking picture that shows the pasture  
2 land in that southern portion of Section 14.

3           And if you look on the left-hand side of  
4 that picture, there is a fence line there. That  
5 would -- that would basically represent where the  
6 southern edge of the 150-foot right-of-way would  
7 go. And so if you go north from there and you look  
8 kind of on the -- kind of in the middle of that  
9 picture just to the left of the lath there, kind of  
10 down in that gully area, you can see a number of  
11 trees that are down there.

12           One of the things when we talk about  
13 clearing right-of-way is we need to clear, as  
14 Mr. Hennes talked about, anything that would have  
15 an impact on reliability for the NERC. But if it's  
16 a low-lying tree that's on the edges of the  
17 150-foot right-of-way or is down in a low-lying  
18 area, that does not necessarily mean that we need  
19 to remove every single one of those.

20           And a number of those trees in that area  
21 are -- are not tall-growing trees and could  
22 probably be left there, and as part of the  
23 construction process we will -- we will examine the  
24 right-of-way, we will look at the species of trees  
25 and determine -- determine what can be cut or what

1 needs to be cleared and -- and what -- what kind of  
2 things we can -- can remain.

3 So we feel that this route centerline and  
4 the route alignment through these -- these couple  
5 sections, Section 14 and Section 13, are the ones  
6 that -- that best minimize the total impact to the  
7 area and to land use.

8 Q. And I'm going to direct you to -- and this  
9 was what was filed with the route permit  
10 application, so I might have to grab the  
11 application for you. But Figure 2, page 3 of 50, I  
12 think, shows what we are talking about here. Let  
13 me grab this for you.

14 A. Oh, so those are -- and that was Figure 2,  
15 page 3 of 50?

16 Q. Yes.

17 A. Yes, I have that in front of me.

18 Q. And I'm hoping that will help to  
19 illustrate what we're talking about. In this case  
20 going through those two sections that you were just  
21 referencing, you're staying close to the section  
22 line; is that right?

23 A. Yes, we are.

24 Q. And you're -- in that area where you're  
25 going to go through between those gullies, you're

1       trying to avoid the trees to the extent possible?

2           A.     Yes, we are.

3           Q.     All right.  And I think we'll turn now to  
4       the questions that were raised by Mr. Weber in that  
5       particular area, and I believe that is shown on --  
6       Exhibit E1 would be one area that we're talking  
7       about right at the beginning of the route.  It's  
8       also shown on G1, the board that's up there.  So if  
9       you could explain that routing as well.

10          A.     The original alignment that we had for the  
11       corridor did follow the road that's on the northern  
12       side of -- of the section that is in there.  And,  
13       again, at the corridor hearings when we went  
14       through that hearing testimony, there were a number  
15       of items that were identified out there for us, and  
16       so that's where we ended up with an expanded  
17       corridor through this portion to go take a more  
18       detailed look at the approach.

19                 Shifting down in this jogged area to  
20       where -- where we take a diagonal southeast away  
21       from the road, come down more towards the eight  
22       section line or so, just over a thousand feet south  
23       of that road, and then make the diagonal to come  
24       back up was really based on a number of items.

25                 One was there are cultural artifacts that

1 had been found on the south side of the road there,  
2 so that -- that was one of the considerations we  
3 took in there that we would be further away from  
4 those cultural artifacts that were there.

5 One was the landowners in those areas, for  
6 the most part, were very receptive to making that  
7 realignment, making the change in the route  
8 centerline.

9 Land use did play a part into that. And  
10 also more towards the west side -- excuse me, the  
11 east side of that portion, a little bit west of  
12 where we make the diagonal, just the north part,  
13 the landowner in that area had identified that they  
14 had an intention of putting grain bins and I  
15 believe an anhydrous tank, as well, up there. I'm  
16 not sure whether it was one or both of them in  
17 there, but there was -- there was -- there was some  
18 planned structures, for lack of a -- that were --  
19 you know, that the landowner had brought to our  
20 attention.

21 The other thing was is looking at this  
22 from a land-use perspective, and I kind of talked  
23 about this in the early testimony, that diagonal on  
24 the east side, what we found by choosing that  
25 location is we've got one structure that is on the

1 corner that begins the diagonal on the southern  
2 portion. There is one that is just -- just to the  
3 west of the property line there but basically as  
4 far on the edge of the tilled area as we were able  
5 to place it, and then there's one that's up on the  
6 corner where we -- we return on the south side of  
7 the road.

8 So those were really the options that we  
9 looked at, again working with the corridor that we  
10 had that was approved out of -- out of the corridor  
11 hearings.

12 MS. SMITH: I have no further questions.

13 JUDGE HOBERG: Thank you, Ms. Smith.

14 Mr. Sagsveen, any further questions of  
15 Mr. Phillips?

16 MR. SAGSVEEN: I don't have any questions.

17 JUDGE HOBERG: Thank you.

18 Commissioner Clark?

19 **EXAMINATION**

20 **BY COMMISSIONER CLARK:**

21 Q. We may have asked this at the first  
22 hearing. I just can't recall what the answer was.  
23 But the river crossing itself, why cross at that  
24 particular point in sort of angled fashion as  
25 opposed to crossing it basically perpendicular to

1 the river, if that question makes any sense? I'll  
2 show this exhibit here. You may be able to see.  
3 As opposed to just crossing it like that and coming  
4 down as opposed to in that fashion.

5 A. Yes. And using Exhibit -- no, it's not an  
6 exhibit. Using Figure 2, page 3 of 50, the same  
7 one that we were on earlier I think is the best way  
8 to take a look at it.

9 The Missouri River crossing was one of the  
10 biggest challenges that we had in both corridor  
11 siting and also in -- in route siting, and we did  
12 talk about it a little bit at the corridor hearings  
13 on there of -- of wanting to be in the same general  
14 vicinity as other transmission line crossings  
15 through that area so that we could minimize  
16 potential impact both from a visual and -- and  
17 other impacts, environmental impacts that we had  
18 heard from the agencies during -- during the agency  
19 meetings that we had.

20 So this area of the Missouri River really  
21 came out as if you have to go across the Missouri  
22 River, this would be the preferable area going  
23 across there.

24 And then it was a matter of talking with  
25 the landowners and looking for ways to where we

1 could minimize impact to landowners that were right  
2 along -- right along the river as well.

3 As an example of that, if you look on the  
4 west side of the river, if we had just taken that  
5 line directly across in an eastwardly manner, we  
6 would have been in close proximity to a couple of  
7 homes that were -- that were over there.

8 So we did spend a lot of time and a lot of  
9 investigation to try to find the right -- right  
10 crossings, worked with the landowners so we're  
11 going to have -- have the least amount of impact  
12 and that's where we ended up with the diagonal  
13 crossing, if you will, going across the Missouri.

14 COMMISSIONER CLARK: Okay. Thank you.

15 JUDGE HOBERG: Thank you, Commissioner  
16 Clark.

17 Commissioner Cramer, please.

18 COMMISSIONER CRAMER: I have nothing.  
19 Thank you.

20 JUDGE HOBERG: Thank you.

21 Commissioner Kalk.

22 COMMISSIONER KALK: No.

23 JUDGE HOBERG: Nothing?

24 Anything further then of Mr. Phillips?

25 MS. SMITH: No, Your Honor.

1 JUDGE HOBERG: Thank you, Mr. Phillips.

2 THE WITNESS: Thank you.

3 JUDGE HOBERG: Additional rebuttal  
4 witnesses?

5 MS. SMITH: No, Your Honor.

6 JUDGE HOBERG: All right.

7 COMMISSIONER CLARK: Oh.

8 JUDGE HOBERG: Commissioner Clark.

9 COMMISSIONER CLARK: I -- I did have one  
10 and I think maybe Mr. Phillips can answer it,  
11 but --

12 JUDGE HOBERG: Mr. Phillips, please.

13 Q. (COMMISSIONER CLARK CONTINUING) And I  
14 apologize if you answered this and I was sort of  
15 thinking about that river crossing while you were  
16 doing that. But Mr. Stevahn's question about the  
17 communications with the company, is that something  
18 that can be taken care of when you've got -- I mean  
19 typically I would guess when you have a landowner  
20 who says, you know, I would like to be informed  
21 about certain things that are coming up, so on and  
22 so forth, that communication takes place. Are you  
23 familiar with the situation why that might not have  
24 happened?

25 A. No, I'm not familiar with -- with that

1 exact case and why he was not informed of things.  
2 We can certainly look into that as to why -- why --  
3 if he's on the mailing list, why he would not have  
4 gotten a mailing associated with -- with whether  
5 it's one of the newsletters or things. I mean we  
6 do have a variety of means of trying to keep  
7 landowners or really anybody in the public,  
8 landowners or nonlandowners, associated with the  
9 project aware and that's through -- through the  
10 project web site, that's through the newsletter  
11 mailings that have gone out, through the number of  
12 meetings that we've had, but we will go back and  
13 look.

14 And there is a mechanism that is on the  
15 web site and that we've -- we've been a proponent  
16 of before to allow -- to allow people to get on a  
17 mailing list so that when we do have a mailing that  
18 goes out and we'll have to research as to why he  
19 did not get a mailing.

20 COMMISSIONER CLARK: Okay. Thank you.  
21 And I'd encourage the company to make that contact,  
22 if possible.

23 THE WITNESS: Mm-hmm.

24 COMMISSIONER CLARK: Thank you.

25 JUDGE HOBERG: Thank you.

1 Anything further of Mr. Phillips?

2 MS. SMITH: I do have a follow-up.

3 JUDGE HOBERG: Yes. Ms. Smith.

4 **FURTHER REBUTTAL EXAMINATION**

5 **BY MS. SMITH:**

6 Q. With respect to these mailings, these  
7 mailings that you're referencing are not required  
8 by law, are they?

9 A. Not to my knowledge, no.

10 Q. They're simply the company's attempts to  
11 provide information to the public of their own --  
12 own volition?

13 A. Yes, they are.

14 MS. SMITH: I have no further questions.

15 JUDGE HOBERG: Thank you, Mr. Phillips.

16 THE WITNESS: Thank you.

17 JUDGE HOBERG: Ms. Smith, nothing further  
18 to bring to the attention of the Commission at this  
19 hearing?

20 MS. SMITH: No, Your Honor.

21 JUDGE HOBERG: All right. Well, of  
22 course, we're not at the end of this process yet.  
23 As I indicated at the outset, we have a February 27  
24 hearing in Grand Forks and a March 1 hearing in  
25 Carrington.

1           And when we get to the end of this, we'll  
2 discuss how we're going to close out the whole  
3 thing, of course, but I suppose the correct  
4 verbiage is that we'll recess this hearing until  
5 the February 27 hearing when we take it up again.

6           Anything else to bring to the attention of  
7 the Commission at this hearing today?

8           MR. PETERSON:   When will we learn of the  
9 results of this hearing?

10          JUDGE HOBERG:   Well, it will be sometime  
11 after the March 1 hearing.  I would assume -- what  
12 usually happens in cases like this is that the  
13 applicant will file proposed findings of facts and  
14 conclusion -- conclusions of law and perhaps a  
15 posthearing brief, at which time the Commission  
16 will consider the proposed findings, as well as any  
17 posthearing brief and all of the evidence that's  
18 been gathered at the three hearings, and then it  
19 will issue its final decision in this matter.  So  
20 that's probably going to be sometime, I'm guessing,  
21 in mid-to-late March.

22          COMMISSIONER CLARK:  And if I can, I can  
23 give folks a little bit of a road map.  Basically  
24 what will happen is, as the judge indicated, we  
25 still have two other hearings.  The last one is

1 March 1 in Carrington.

2 And after that is closed, there will be  
3 some period of time during which the Commission  
4 really probably won't have many meetings on it. We  
5 can only talk about it at an -- at an open meeting,  
6 a published noticed meeting.

7 We have a hearing transcript in this case.  
8 Oftentimes it takes several weeks for the -- for  
9 that record to be compiled for the Commission and  
10 so there's usually that period. There may be some  
11 late-filed exhibits that the company puts in. But  
12 probably sometime in, say, mid-to-late March we'll  
13 be scheduling what we call a work session, which is  
14 the Commission's opportunity to talk amongst itself  
15 about a pending case.

16 And so we might have in, you know, I'm  
17 guessing late March maybe a work session on it.  
18 But that's really the first chance that we have to  
19 chat about it. And it may be several weeks even  
20 past that before we finally have an order that's  
21 ready for us to look at and to consider what we  
22 would do with it.

23 So it will be four to eight weeks probably  
24 after that last hearing before we have an  
25 opportunity to -- to vote on anything or make any

1 decisions, and that will be at a regular Commission  
2 meeting which are held at the Capitol.

3 JUDGE HOBERG: Thank you, Commissioner.

4 Anything else to bring to the attention of  
5 the commissioners before we close this portion of  
6 the hearing?

7 All right. For the record, it's 12:30  
8 and, as I said, we'll stand in recess until  
9 February 27, nine o'clock, in Grand Forks.

10 (Concluded at 12:32 p.m., the same day.)

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CERTIFICATE OF COURT REPORTER

I, Stephanie A. Smith, a Registered Professional Reporter,

DO HEREBY CERTIFY that I recorded in shorthand the foregoing proceedings had and made of record at the time and place hereinbefore indicated.

I DO HEREBY FURTHER CERTIFY that the foregoing typewritten pages contain an accurate transcript of my shorthand notes then and there taken.

Dated at Bismarck, North Dakota, this 28th day of February, 2012.

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Stephanie A. Smith  
Registered Professional Reporter

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