

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

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

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**PUBLIC SERVICE COMMISSION** TRANSCRIPT OF HEARING

Taken At  
Chieftain Conference Center  
60 Fourth Avenue South  
Carrington, North Dakota  
March 1, 2012

Before Allen C. Hoberg  
Administrative Law Judge

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Transcript of hearing

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COMMISSIONERS PRESENT:

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

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MS. MOLLIE M. SMITH  
Fredrikson & Byron, P.A.  
Attorneys at Law  
200 North Third Street, Suite 150  
P. O. Box 1855  
Bismarck, North Dakota 58502-1855

FOR THE APPLICANT, MINNKOTA  
POWER CO-OP, INC.

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MR. MATTHEW A. SAGSVEEN  
Office of Attorney General  
Assistant Attorney General  
500 North Ninth Street  
Bismarck, North Dakota 58501

FOR THE NORTH DAKOTA PUBLIC  
SERVICE COMMISSION.

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ALSO PRESENT:

MR. JERRY LIEN, Public Service Commission  
Staff

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1           (The following proceedings were had and  
2 made of record, Thursday, March 1, 2012, commencing  
3 at 10:00 a.m.)

4           JUDGE HOBERG: Good morning. We'll go on  
5 the record for this matter today. It's about -- a  
6 few minutes before ten, a little delayed with the  
7 weather conditions today. It's March 1st, 2012.  
8 We're in the Chieftain Conference Center, the Tepee  
9 Room, in Carrington, North Dakota, for the  
10 administrative hearing in the matter of the siting  
11 application of Minnkota Power Cooperative.

12           My name is Allen Hoberg. I'm the  
13 designated hearing officer today. I'm with the  
14 Office of Administrative Hearings. As a courtesy to  
15 the Commission, please turn off your cell phones or  
16 your other devices you may have.

17           Are you hearing me all right in the back?  
18 It's fine. Okay. Good. I'll take appearances at  
19 this time from counsel, starting with the applicant.  
20 Ms. Smith, please.

21           MS. SMITH: Mollie Smith, from Fredrikson  
22 & Bryson, and with me is Gerad Paul, from Minnkota.

23           JUDGE HOBERG: Thank you. Mr. Sagsveen,  
24 please.

25           MR. SAGSVEEN: Matt Sagsveen, from the

1 Office of Attorney General, and to my left is  
2 Mr. Jerry Lien, and if I could request permission to  
3 allow Mr. Lien to question the witness, when  
4 necessary.

5 JUDGE HOBERG: Permission granted. And  
6 for the record, there are no intervenors in this  
7 application; correct, Mr. Sagsveen?

8 MR. SAGSVEEN: That's correct, Your Honor.

9 JUDGE HOBERG: All right. To my left are  
10 members of the Public Service Commission;  
11 Commissioner Kevin Cramer, Commission Chairman Tony  
12 Clark, and Commissioner Brian Kalk. I will shortly  
13 call on the Commissioners for their opening  
14 comments, beginning with Commissioner Clark, who has  
15 the electric generation and transmission portfolio,  
16 but, first, I want to talk about public testimony.

17 The Commission encourages public testimony  
18 at the hearing today, especially if you weren't at  
19 the other two hearings on this matter. This will be  
20 your only opportunity to present information to the  
21 Commission. And the Commission can only consider  
22 evidence or, in other words, information offered at  
23 the public hearing in making its decision on this  
24 matter. I had a little bit of show of hands a  
25 couple minutes ago about who might want to give

1 public testimony, but anyone who is either in favor  
2 or opposed or neutral on the application may wish to  
3 participate by presenting testimony or information  
4 to the Commission today.

5 Can I get a show of hands again? Maybe  
6 some of you have reconsidered about who may want to  
7 present information to the Commission today?

8 (Indicating) It looks like maybe about four or five  
9 people. Later, when I get into the hearing  
10 procedure, I'll explain how we're going to do that,  
11 but I encourage all of you to sign the attendance  
12 sheet that's being circulated and if you'll please  
13 indicate on that sheet that you do wish to give  
14 testimony, if you wish to do so, that will help me  
15 when I get to that portion of the hearing.

16 Just a brief summary of the application.  
17 On September 7, 2011, the Commission issued Corridor  
18 Certificate No. 121 to Minnkota designating a  
19 transmission facility corridor for approximately 260  
20 miles of transmission line and associated facilities  
21 to be constructed from the Center Substation near  
22 Center, North Dakota, to the Prairie Substation near  
23 Grand Forks, North Dakota. On December 2nd,  
24 Minnkota filed applications for modification to the  
25 designated corridor, a waiver of procedures and time

1 schedules and a transmission facility route to be  
2 designated within the modified corridor as was shown  
3 on an attached map.

4 Then a notice of filing and notice of  
5 hearings was issued scheduling three separate public  
6 hearings. They were scheduled to be held with each  
7 covering an overview of the project, but focusing on  
8 specific portions of the project in the specific  
9 areas of each hearing. So we've held a public  
10 hearing in Washburn, North Dakota that focused  
11 primarily on the portions of the project in  
12 Burleigh, McLean, Oliver and western Sheridan  
13 Counties. That was on February 22nd.

14 Then on February 27th we held a hearing in  
15 Grand Forks focusing primarily on the portions of  
16 the project in Grand Forks, Nelson and Steele  
17 Counties. And, of course, today's hearing is  
18 scheduled here focusing primarily on portions of the  
19 project in Eddy, Foster, Griggs, Eastern Sheridan  
20 and Wells Counties.

21 The issue for each of these hearings on  
22 this application are as follows: First: Will the  
23 location, construction and operation of the proposed  
24 facilities produce minimal adverse effects on the  
25 environment and upon the welfare of the citizens of

1 North Dakota?

2 Second, are the proposed facilities  
3 compatible with the environmental preservation and  
4 the efficient use of resources? Third, will the  
5 proposed facility locations minimize adverse human  
6 and environmental impact while ensuring continuing  
7 system reliability and integrity and ensuring that  
8 energy needs are met and fulfilled in an orderly and  
9 timely fashion? And, finally, is it appropriate for  
10 the Commission to approve a 1,000-foot wide corridor  
11 as requested in the application? Those are the only  
12 issues for this hearing today.

13 I will call on the Commissioners now for  
14 their opening statements, starting with Commissioner  
15 Clark, please.

16 COMMISSIONER CLARK: Thanks, Judge Hoberg.  
17 And thanks to all of you for being here this  
18 morning. And thanks also for your patience as we  
19 get a little bit of delayed start in relation to our  
20 travel delays.

21 If you've been to one of these before in  
22 one of our previous hearings here on the corridor  
23 route, you have a sense for how this goes, but if  
24 it's the first time you've been here, I'll just go  
25 over a little bit of the procedure.

1           It's probably a little bit more formal  
2 than you may be used to in County Commission  
3 proceedings or Legislative proceedings, City Council  
4 proceedings, things like that. You'll notice it's a  
5 little bit more formal, a little bit more  
6 legalistic. Please know that the reason it's done  
7 like that is not because we want to discourage  
8 anyone from testifying. In fact, it's just the  
9 opposite. The reason we've scheduled a number of  
10 hearings throughout the state, in addition to just  
11 the one that's required under statute, is because we  
12 want public participation. It's why we hold them in  
13 the communities that are affected. But, rather,  
14 it's that State law says that the Commission can  
15 only make a decision based on information that's  
16 developed at a proceeding like this with witnesses  
17 and the opportunity for counsel to cross-examine and  
18 be sworn in and so on, and so forth. We literally  
19 can only decide cases based on what's developed at  
20 these.

21           So the importance of that for you is this  
22 is your opportunity, if there's anything you want us  
23 to consider, to do it here today. Every now and  
24 then we'll have one of these hearings and someone  
25 will catch me outside in the hallway afterwards and

1 say, wow, that was really interesting, but what you  
2 really need to know is this. Well, after the  
3 hearing is closed, unfortunately, I can't take any  
4 of that into consideration, nor can any of my  
5 colleagues. So it really is your opportunity, if  
6 there's something you want us to consider, to do so.  
7 I'm pleased to see that we have a good turnout here  
8 today. And even if you haven't raised your hand yet  
9 and there's something that you hear along the way,  
10 either from a company witness or another witness, a  
11 member of the public who testifies, and you think  
12 there needs to be some additional information given,  
13 please, you know, don't hesitate to step right up.  
14 We do look forward to hearing from you. So, thanks,  
15 and I look forward to a good hearing.

16 JUDGE HOBERG: Thank you, Commissioner  
17 Clark. Commission Cramer, please.

18 COMMISSIONER CRAMER: Thank you, Your  
19 Honor. Thanks everyone for being here. I would  
20 just echo everything Commissioner Clark said and  
21 emphasize the admonition that whatever you do, do  
22 not walk out of here today wishing you had said  
23 something. If you have something to say, whether in  
24 support, whether in opposition or just a question or  
25 an observation or, you know, just clarification,

1 please use this opportunity, because this is the  
2 last hearing, the last day on this case.

3 So thanks for being here. We look forward  
4 to a good, thorough hearing on the matter before us.

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

7 COMMISSIONER KALK: I'd just like to  
8 apologize for the delay today. We're here for one  
9 reason, to get your testimony. So if you have  
10 anything to say, now is the time to say it. Look  
11 forward to a good hearing. Thank you.

12 JUDGE HOBERG: Thank you, Commissioner  
13 Kalk. This is the hearing procedure we're  
14 going to follow today. I'll first call on the  
15 applicant to present its case in regard to a grant  
16 of the application; in other words, the issuance of  
17 a modified corridor certificate and a route permit.

18 Ms. Smith has indicated, as at the other  
19 hearings, that she will call three witnesses. Each  
20 of the witnesses she calls will be subject to  
21 questions by her. Following that, questions by  
22 Commission counsel and Commission staff. Following  
23 that, questions by the Commissioners, and then I'll  
24 allow such further questions as may be necessary of  
25 each of the three witnesses.

1           When Ms. Smith has completed her  
2 presentation of her case, that is when I'll call for  
3 public testimony for anyone who wishes to present  
4 information to the Commission. Again, the  
5 Commissioners obviously encourage public testimony  
6 and I'll use that signup sheet that's indicated, but  
7 I'll also ask if there's anyone else who wishes to  
8 present testimony that maybe hadn't put their name  
9 down. And I'll call your name and you'll come up to  
10 the front and sit at that chair, and I'll swear you  
11 in just as I swear in the witnesses for the  
12 applicant and you'll provide your testimony in  
13 narrative form to the Commission. Then I'll allow  
14 the applicant and the Commission staff and the  
15 Commissioners to ask questions of you if they have  
16 any questions of you. So please come up and  
17 testify, if you wish to do so.

18           There won't be a decision reached on this  
19 matter today. As has been said, there have been  
20 three hearings. This will be the last hearing, but  
21 following that, there's a procedure that the  
22 applicant will likely file proposed findings of fact  
23 and conclusions of law and then the Commission will  
24 consider the record from all of the hearings in this  
25 matter. And the Commission will issue findings of

1 fact and conclusions of law and a final order as to  
2 whether the application should be granted. In other  
3 words, whether the modified corridor certificate and  
4 route permit should be issued or denied or as to  
5 other appropriate administrative action that the  
6 Commission may deem needs to be taken.

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

14 The burden of proof today, in other words,  
15 the burden of persuasion is on the applicant to show  
16 by the greater weight of the evidence that it is  
17 entitled to the siting application it is seeking.

18 The last preliminary matter I want to  
19 discuss is, I should note that all of the evidence  
20 that has been presented at the other hearings is on  
21 the record now and has been admitted and we have  
22 copies of that evidence, including the evidence from  
23 the corridor hearings, the three earlier corridor  
24 hearings, if anyone wishes to see those.

25 So the evidence that the applicant will be

1 reviewing today likely has already been admitted.  
2 And, again, today's hearings will focus on those  
3 portions of the project in Eddy, Foster, Griggs,  
4 Eastern Sheridan and Wells Counties.

5 Anything else preliminarily, Ms. Smith,  
6 you want to discuss before we begin your  
7 presentation?

8 MS. SMITH: No, Your Honor.

9 JUDGE HOBERG: Mr. Sagsveen?

10 MR. SAGSVEEN: No, Your Honor.

11 JUDGE HOBERG: All right. Would you call  
12 your first witness, please?

13 MS. SMITH: Mike Hennes.

14 THE WITNESS: Good morning, Your Honor.  
15 Good morning, Commissioners.

16 JUDGE HOBERG: Good morning. I do need to  
17 swear Mr. Hennes in. And this is for the benefit of  
18 the three applicant witnesses, as well as any of the  
19 public witnesses that may present testimony today.  
20 And that is, I'm required by law to tell all  
21 witnesses at administrative hearings that the  
22 maximum penalty for perjury in this State is a Class  
23 C felony, punishable by a maximum five years  
24 imprisonment, \$5,000 fine, or both. And, of course,  
25 perjury is essentially not telling the truth at a

1 hearing such as this.

2 Mr. Hennes, being advised of the penalty  
3 for perjury, do you promise to tell the truth in  
4 this matter being heard? If so, answer I do.

5 THE WITNESS: I do.

6 JUDGE HOBERG: Thank you. Ms. Smith,  
7 please.

8 MICHAEL HENNES,  
9 having been first duly sworn, was examined and  
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MS. SMITH:

13 Q. Could you please state your full name for  
14 the record.

15 A. Michael Hennes.

16 Q. And you're employed by Minnkota Power  
17 Cooperative, Inc.; is that right?

18 A. That is correct.

19 Q. And what's your business address?

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

21 Q. And what's your position with Minnkota?

22 A. I am assistant project manager at Minnkota  
23 responsible for capital -- large capital projects,  
24 and I'm also the project manager assigned to this  
25 particular project.

1 Q. Could you just briefly discuss your  
2 education and your work history?

3 A. I received my Bachelor of Science degree  
4 in electrical engineering and engineering management  
5 from the University of North Dakota. I started my  
6 career in 1975 with Basin Electric, and I joined  
7 Minnkota in 1994 as an electrical engineer. I've  
8 also worked as a project engineer and an engineering  
9 manager while at Minnkota.

10 Q. And you mentioned that you are the project  
11 manager for this project. What are your  
12 responsibilities in that role?

13 A. Well, I have the overall responsibility  
14 for the budgeting and scheduling, the coordination  
15 of all the permitting, design, right-of-way  
16 acquisition and construction of the proposed Center  
17 to Grand Forks project.

18 Q. And could you just briefly tell us who and  
19 what different groups of people make up the team  
20 that is working on this project?

21 A. On a project this size, Minnkota needs to  
22 use the talents of outside resources. So besides  
23 Minnkota team leaders in engineering, environmental  
24 permitting, right-of-way and legal procurement,  
25 communications and public relations and also

1 construction management, we have hired the services  
2 of Stanley Consultants as the primary consultant  
3 responsible for project design and construction  
4 management. They, in turn, have hired the services  
5 of a local company, Kadrmas, Lee & Jackson, who is  
6 responsible for the project survey and right-of-way  
7 acquisition. We've also retained the services of  
8 HDR Engineering out of Minneapolis, and they're  
9 responsible for the environmental and permitting  
10 process.

11 Q. And then if you'll look at what's been  
12 previously marked and admitted as Exhibit A, can you  
13 just identify that for us?

14 A. Yes. This is a copy of Minnkota's route  
15 permit application and the corridor modification and  
16 waiver request for this project. These were filed  
17 with the Commission on December 2nd, 2011.

18 Q. And I should note that there's copies of  
19 the exhibits in the back of the room in case anyone  
20 wants to take a look at them.

21 And then if you can look at what's been  
22 marked as Exhibit B, and that's already been  
23 admitted as well, can you identify that exhibit for  
24 us?

25 A. Yes, this is a copy of a letter and the

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

3 Q. And can you tell us what the letter and  
4 the maps discuss?

5 A. The letters discuss one additional  
6 modification of the proposed modified project  
7 corridor which was in Eddy County, and it also  
8 discusses four minor right-of-way alignment  
9 adjustments. Three were made to accommodate  
10 landowner requests and one to avoid a cultural  
11 resource site. These were located in McLean, Eddy,  
12 Wells and Grand Forks Counties. The maps illustrate  
13 the corridor change and the alignment adjustments  
14 requested.

15 Q. And during the Certificate of Corridor  
16 Compatibility application hearings we heard some  
17 detailed testimony regarding the need for this  
18 project, but could you provide just a brief overview  
19 of why Minnkota is proposing to construct this  
20 project?

21 A. Sure. This project addresses the need to  
22 secure a source to meet Minnkota's long-term energy  
23 supply requirements. Minnkota has agreements with  
24 Minnesota Power and Square Butte Cooperative that  
25 allow Minnkota to increase base load generation

1 resources without constructing a new coal-fired  
2 plant by acquiring the additional output from the  
3 exhibiting Young 2 plant. The proposed project  
4 provides the means for transporting that additional  
5 base load generation into Minnkota's service  
6 territory.

7 The project also addresses identified grid  
8 reliability issues. The proposed project will  
9 improve the reliability of the grid to serve load in  
10 northeast North Dakota and northwest 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. We have now moved to a five-  
15 year schedule based on a revised anticipation of the  
16 PSC route permit issuance in the first quarter of  
17 2012. The long-term delivery items for -- have  
18 started manufacture and that has been ongoing. The  
19 construction is slated to start the spring of 2012,  
20 in the late May, early June time frame, and the  
21 project is schedule to be in service late fourth  
22 quarter 2013.

23 Q. And this is a little bit of a change from  
24 the schedule that was presented in the Certificate  
25 of Corridor Compatibility hearings. Can you just

1 explain why the changes have occurred?

2 A. The schedule presented at the corridor  
3 hearing anticipated a fall 2011 construction start.  
4 The change in the project schedule is primarily due  
5 to delays in the rural utility services, our funding  
6 sources, environmental consultation with the U.S.  
7 Fish and Wildlife Services regarding the project's  
8 Section 7 mitigation plan for minimizing impacts to  
9 the whooping crane.

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

17 Q. And then if you'll look at what's been  
18 previously marked and admitted as Exhibit C, and  
19 it's also on the board that's on the easel next to  
20 you, can you identify that for us?

21 A. Yes. This is the map of the proposed  
22 project route within the proposed modified project  
23 corridor.

24 Q. And what approach did Minnkota take to  
25 selecting this proposed route?

1           A.     Once the corridor was approved, the route  
2     selection was influenced mainly by landowner  
3     discussions during the right-of-way procurement  
4     process. 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 a request to reroute the line off the  
9     landowner's property, every effort was made to  
10    contact neighboring landowners for input on  
11    suggested reroute. In the majority of the  
12    instances, these neighboring landowners rejected the  
13    suggested reroutes and the route remained in the  
14    location originally proposed.

15          Q.     What were some of the factors that  
16    Minnkota took into account in developing this  
17    proposed project route?

18          A.     Again, primarily, it was input from  
19    landowners and also consideration for avoidance of  
20    wetlands and archeological and environmentally  
21    sensitive areas. These were the primary  
22    considerations in the final route selection. We  
23    also ran into existing wind leases and that played a  
24    factor. The proposed route is following the  
25    recommendations of the potential developers in those

1 areas.

2 Q. And how did Minnkota involve landowners  
3 and agents in selecting the proposed project route?

4 A. Minnkota's route selection process focused  
5 on engaging in one-on-one discussion with the  
6 landowners. Also, several meetings were organized  
7 to talk to groups of landowners, at their request,  
8 in select areas to hear common concerns.

9 Meetings and discussions with agency and  
10 advocacy groups were held to gather input on the  
11 final route alignment. These groups that we met  
12 with include the Grand Forks County Prairie  
13 Partners, the Audubon Dakota, North Dakota  
14 Department of Trust Lands, Western Area Power  
15 Administration, Grand Forks International Airport,  
16 the UND Aviation School and the two wind developers  
17 along our corridor were OTESCO and INFINITY.

18 We also used ongoing project-related  
19 outreach, including project newsletter mailings and  
20 updates to the project Web site.

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

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

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

16          Q.     And as of today, what is the status of  
17 right-of-way acquisition?

18          A.     The right-of-way team has negotiated  
19 options and easements for 73 percent of the  
20 project's 250-mile-long proposed route, and that's  
21 73 percent of the mileage. If you count by  
22 landowners, that percentage is just slightly more  
23 than that.

24          Q.     And what is Minnkota's plan as far as  
25 construction of the project, specifically where you

1 intend to begin construction and end construction?

2 A. During the first year of construction,  
3 2012, the primary contractors will begin  
4 construction on the eastern line segment between  
5 Cooperstown and Grand Forks. The tree clearing and  
6 fencing contractor will also start in the section,  
7 but will most likely also be working on the western  
8 portion of the project in 2012 as well.

9 There will be off-season work at the  
10 Missouri River crossing and other environmentally  
11 sensitive areas.

12 The primary contractors will then move  
13 into the western half of the project in the spring  
14 of 2013, with project completion anticipated by the  
15 end of 2013.

16 Q. And during the construction process, how  
17 does Minnkota plan to keep landowners and local  
18 authorities informed of the progress?

19 A. Project personnel will notify landowners  
20 prior to work being conducted on their property and  
21 will be available on call to manage any issues or  
22 concerns that may arise.

23 We will also continue with our project  
24 newsletters. An interactive project Web site is  
25 being developed to help make real-time construction

1 maps and information available to any interested  
2 party. The project toll-free hotline will be  
3 maintained throughout the construction time frame  
4 and also will continue a direct email contact with  
5 landowners who choose to sign up for that service.  
6 That email would then notify of the construction  
7 activity in and along the route.

8 Q. And how will Minnkota coordinate with  
9 other utilities and road authorities along the  
10 proposed route?

11 A. The construction manager will provide  
12 advanced planning resources and their job will be to  
13 look ahead and make the necessary utility one-calls  
14 prior to auguring the foundation excavations.

15 Road authorities will have an opportunity  
16 to review the traffic plans proposed in their areas  
17 prior to the start of construction. Specific  
18 communication requirements will be accommodated  
19 along with proposed public notifications planned via  
20 newsletters, media, hotline, emails and other public  
21 announcements.

22 An interactive Web site is also being  
23 developed to help make real-time construction maps  
24 and information available to the public, as I had  
25 mentioned earlier.

1           Q.     And what steps have or will Minnkota take  
2           in order to be prepared for any emergency situations  
3           that may arise, either during construction or after  
4           construction?

5           A.     The primary contractors on this project  
6           are required to provide field safety officers. The  
7           construction manager will provide the field safety  
8           officers with the contact information and response  
9           areas for each local emergency responder along the  
10          project route.

11                     Minnkota will also develop an emergency  
12          communications plan with the local EMS,  
13          firefighters, law enforcement and local officials.  
14          We'll also have procedures for notifying landowners  
15          of emergency situations, and these are in place for  
16          all of Minnkota's 3,000 miles of transmission line  
17          currently in service and those procedures will also  
18          be used for this project once it's in service, as  
19          well.

20          Q.     And what steps will Minnkota take to  
21          ensure that the project is constructed in compliance  
22          with all applicable permits and in a manner that  
23          minimizes environmental impacts?

24          A.     Minnkota plans to retain the services of  
25          an environmental inspector. This inspector will be

1 responsible for training the construction personnel  
2 entering the job, overseeing correct placement of  
3 exclusion fencing or markers for identifying  
4 environmentally-restricted areas; wetlands, streams.  
5 And also will be monitoring the construction for  
6 compliance with the environmental conditions and  
7 requirements of the project, and they'll be also  
8 monitoring site restoration following the completion  
9 of construction activities.

10 Q. And if you'll look at what's been  
11 previously marked and admitted as Exhibit D, is that  
12 a copy of the certification relating to order  
13 provisions that was sent to Minnkota by the  
14 Commission and was executed by Minnkota?

15 A. Yes, it is.

16 Q. And as we've previously noted, Minnkota  
17 intends to -- or is requesting that the Commission  
18 waive the requirement or modify the requirement of a  
19 50-foot clearcut across windbreaks, shelterbelts and  
20 other wooded areas; is that right?

21 A. That is correct.

22 Q. And, instead, you would ask that it be a  
23 clearcut width of the entire 150-foot right-of-way;  
24 is that right?

25 A. In areas where that's necessary.

1 Q. And when would that be necessary?

2 A. To meet the North American Electric  
3 Reliability Corporation or NERC standard for  
4 transmission line reliability, any tree that may  
5 inadvertently come into contact with a high-voltage  
6 transmission line is required to be identified and  
7 removed. This may require the clearing of the  
8 entire 150-foot right-of-way in heavily-wooded  
9 areas.

10 Also, extremely tall trees in poor health  
11 that are just outside the 150-foot right-of-way may  
12 also need to be selectively removed to meet NERC  
13 requirements.

14 Q. And are there any county or township land  
15 use permits that are required for the project?

16 A. Yes. Most of the counties and some  
17 townships in select counties require conditional use  
18 permits for the project.

19 Q. And what counties or townships require  
20 those conditional use permits?

21 A. All the counties require conditional use  
22 permits or approval for the project, with the  
23 exception of Burleigh and Steele Counties. In those  
24 counties the townships of Painted Woods and Wilson  
25 and Burleigh County, Addie Township in Griggs, and

1 Sharon Township and Franklin Township in Steele  
2 County have their own conditional use permits.

3 Also, we've identified Fairfield, Logan  
4 and Loretta Townships in Grand Forks County as  
5 requiring conditional use permits.

6 Q. And what is the status of obtaining those  
7 conditional use permits?

8 A. In Eddy County, no formal process is in  
9 place, but County Commissioners issued a letter  
10 authorizing approval. All the other counties have  
11 issued or conditionally issued a conditional use  
12 permit for the project.

13 As far as the townships, all the  
14 townships, except Grand Forks County, have  
15 conditionally issued a permit. And with regard to  
16 Grand Forks County, we are re-reviewing to see if an  
17 additional township requires an additional use  
18 permit.

19 Q. And based on the studies and analyses that  
20 have been conducted and on the testimony presented  
21 today, what are some of the conclusions that  
22 Minnkota has reached regarding the proposed project  
23 and, more specifically, the proposed route?

24 A. Minnkota has previously provided detailed  
25 testimony on the proposed projects need and

1 importance to the region's electrical transmission  
2 infrastructure. In the three years of preparatory  
3 work leading to today's route permit hearing, the  
4 need to make a reliability and load serving  
5 improvements to secure the lowest cost solution to  
6 providing future generations with a dependable  
7 electrical supply has not diminished. The proposed  
8 route is a result of Minnkota's extensive efforts to  
9 accommodate landowners' and other stakeholders'  
10 requests when selecting a route within the approved  
11 corridor, while also selecting a route to present  
12 the least overall impact.

13 MS. SMITH: I have no further questions.

14 JUDGE HOBERG: Thank you, Ms. Smith.

15 Mr. Sagsveen, do you have any questions?

16 MR. SAGSVEEN: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. SAGSVEEN:

19 Q. Do you have the exhibits in front of you?

20 A. Mm-hmm.

21 Q. Could you page to map -- or Exhibit, I  
22 think, G3. That's the Eddy County modification.  
23 And is that modification to accommodate a landowner  
24 request, or is that a cultural resource  
25 modification?

1           A.     That is a combination of several factors;  
2     the individual landowner request, also to  
3     accommodate the neighboring landowners and also  
4     there was cultural identified on the original route.

5           Q.     And when you say "neighboring landowners,"  
6     did they want it further from their property or --  
7     because the corridor is moving up four-tenths of a  
8     mile. Do you recall what type of reasons they  
9     wanted that moved?

10          A.     I think Mr. Phillips will go into detail.  
11     We have a specific exhibit for this discussion, but,  
12     in general, this route was contained within one  
13     landowner's property, but the neighboring landowners  
14     asked us to meet this particular landowner's  
15     requirements before they would agree to negotiate  
16     for their lands.

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

19                 JUDGE HOBERG: Thank you. Mr. Lien, any  
20     questions?

21                 MR. LIEN: No questions.

22                 JUDGE HOBERG: Thank you. Commissioner  
23     Clark, please.

24                 COMMISSIONER CLARK: No questions. Thank  
25     you, Your Honor.



1 basically follows the Missouri River and expands to  
2 the east to about Jamestown on the east side and  
3 equivalent miles west into Oliver County and further  
4 on the west side. So our transmission line does  
5 pass through this wide whooping crane siting, high  
6 probability siting flight corridor. One of the  
7 requirements for the new transmission line was that  
8 we adequately provide bird marking or identification  
9 on the line to help all migratory birds, including  
10 the whooping crane, see the transmission line and  
11 avoid it.

12 So on a new transmission line you  
13 basically have the opportunity to design in the  
14 correct criteria required to handle the additional  
15 ice loading that's presented by those bird flight  
16 diverters. And a bird flight diverter is a spiral-  
17 wrapped piece of plastic that's put about every 50  
18 feet on the static line. And what happens is, that  
19 spiral wrap develops an ice ball. So in our area we  
20 can see up to an inch, inch-and-a-half of ice. At  
21 each one of those bird marking locations you  
22 accumulate, you know, 40 to 50 pounds of ice, so  
23 over the 100,000-foot stand, that adds up to a  
24 significant amount of additional weight that the  
25 transition needs to carry. Like I said, meeting the

1 Fish and Wildlife guidelines on the existing --  
2 excuse me -- on the new project was accommodated for  
3 and modifications were made and additional dollars  
4 were spent to mark for their plan.

5 What the challenge was and what caused the  
6 delay to Minnkota specifically, was that our Region  
7 6 -- and it's not unique to the whole nation, it's  
8 our Region 6 of the U.S. Fish and Wildlife Service  
9 has an additional guideline and requirement. And  
10 that requirement says that for every mile of a new  
11 transmission line that you install bird flight  
12 diverters on, that you have to find an existing  
13 transmission line and mark equivalent miles. So in  
14 our case we had to identify 120 miles of existing  
15 transmission lines that we could mark to meet the  
16 U.S. Fish and Wildlife guidelines.

17 Now, we only have one other transmission  
18 line through the whooping crane corridor that would  
19 meet that. I should correct that. We have two  
20 lines, but we have a line from Center to Heskett  
21 that runs mostly in Oliver County, but only about  
22 two or three miles of that is suitable for marking  
23 so I always overlook that. Mainly, it's our Center  
24 to Maple River 345 line that pretty much parallels  
25 the I-94 corridor.

1           So we had to do a detailed analysis of  
2 that transmission line to make sure that adding the  
3 additional weight loading wouldn't exceed the  
4 capability of those structures. And the challenge  
5 for us was, was that transmission line was built in  
6 the late '60s, early '70s. It started out as a 230  
7 Kv line and in the late '70s, early '80s, it was  
8 upgraded to a 345 Kv line on the same structures.  
9 That upgrade used up most of the design margin in  
10 those structures. So our analysis showed that on  
11 that existing line for the spans that were greater  
12 than 800 foot, that we could not support without  
13 exceeding the safety margins, we could not support  
14 additional bird marking. So that limited the amount  
15 of miles that we could mark on that transmission  
16 line to approximately 50 or 60 miles. And,  
17 therefore, the U.S. Fish and Wildlife Service  
18 determined that we didn't meet their guideline  
19 because we didn't have 120 miles identified that we  
20 could mark.

21           So two steps that we followed was we  
22 solicited our neighboring utilities to see if any of  
23 those would host markings on our behalf. If we paid  
24 them to put markers on their transmission lines to  
25 help us meet the guidelines, would they consider

1 that, and none of the neighboring transmission  
2 utilities or distribution utilities in the route  
3 area agreed to do that because of the additional  
4 liability that placing additional ice loading puts  
5 on their transmission lines. In the recent history  
6 we've had several ice storms that have taken down  
7 several miles of both distribution and transmission  
8 lines, so everybody is really sensitive to this  
9 icing condition. We explained that to the U.S. Fish  
10 and Wildlife Service, and they basically suggested  
11 that we ask utilities, you know, south of us in  
12 neighboring states.

13           And we took an alternative path. I guess  
14 if we're going to spend mitigation dollars, we'd  
15 rather spend them in North Dakota. So we went back  
16 to the distribution co-ops, again, along the  
17 proposed route and asked them if they would convert  
18 overhead distribution line to underground on our  
19 behalf to actually remove lines from areas that are  
20 near suitable habitat for the whooping crane, would  
21 they do that on our behalf. And four local co-ops  
22 have agreed to do that. We have identified over 200  
23 miles of potential overhead line that can be  
24 undergrounded and we identified that to the U.S.  
25 Fish and Wildlife Service, that we basically only

1 need to convert 35 miles because in their  
2 negotiations they indicated they'd give us a two-to-  
3 one credit if we do underground.

4 And the problem is, is that undergrounding  
5 is about three or four times more expensive than  
6 marking and overhead, so we would naturally prefer  
7 to mark overhead if we had it available, but that's  
8 where we're at today.

9 Q. How much cost did that add to the project?

10 A. Well, total -- it's broken out into  
11 several components. The cost to modify the existing  
12 design to handle the additional ice load was  
13 slightly over a million dollars. The cost to mark  
14 the proposed new line was about a million-and-a-half  
15 dollars, so -- and the cost to mark and underground  
16 will make the total approximately \$3.8 million.

17 COMMISSIONER CRAMER: And that, ladies and  
18 gentlemen, was not a Saturday Night Live routine.  
19 That was the government at work.

20 I have nothing further. Thank you.

21 JUDGE HOBERG: Thank you, Commissioner  
22 Cramer.

23 Commissioner Kalk, please. No questions.  
24 Thank you.

25 Any further questions of Mr. Hennes?

1 MS. SMITH: No, Your Honor.

2 JUDGE HOBERG: Any further questions?

3 MR. SAGSVEEN: No, Your Honor.

4 JUDGE HOBERG: Thank you, Mr. Hennes.

5 THE WITNESS: Thank you.

6 JUDGE HOBERG: Please call your next  
7 witness.

8 MS. SMITH: Duane Phillips.

9 THE WITNESS: Good morning.

10 JUDGE HOBERG: Good morning, Mr. Phillips.  
11 Did you hear the admonition I gave in  
12 regard to perjury?

13 THE WITNESS: Yes, I did.

14 JUDGE HOBERG: Being advised of the  
15 penalty for perjury, do you promise to tell the  
16 truth in this matter being heard? If so, answer I  
17 do.

18 THE WITNESS: I do.

19 JUDGE HOBERG: Thank you. Ms. Smith,  
20 please.

21 DUANE PHILLIPS,

22 being first duly sworn, was examined and testified  
23 as follows:

24

25

DIRECT EXAMINATION

1

2

BY MS. SMITH:

3

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

4

5

A. Duane Phillips.

6

Q. And who are you employed by?

7

A. Stanley Consultants.

8

Q. And what is your business address?

9

A. My business address is 8000 South Chester Street, Suite 500, in Centennial, Colorado.

10

11

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

12

13

A. Yes. My educational background is in electrical engineering and nuclear engineering. I've got a -- I have 32 years experience in the energy business, including generation, transmission, substation and distribution areas.

14

15

16

17

18

I've got over -- I've got 24 years of project and construction experience, designing and building and operating high-voltage -- high-voltage systems, and I've been a project manager for about 15 high-transmission projects for about 750 miles.

19

20

21

22

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

23

24

25

A. I am the project manager or the project

1 lead for the engineering team, which includes system  
2 studies. It also includes project conceptual work,  
3 the corridor selection process, the preliminary  
4 design, aerial and ground survey, the detailed  
5 electrical study work, technical field study work,  
6 the right-of-way process and acquisition, the final  
7 detailed engineering and design, and I'll also be  
8 involved in construction management and construction  
9 support.

10 Q. Now, have there been any changes in the  
11 proposed project right-of-way with design or  
12 associated facilities since the public hearings on  
13 Minnkota's Certificate of Corridor Compatibility  
14 application?

15 A. There have been no changes, other than  
16 selecting the route site line and determining the  
17 structural locations along that route site line.

18 Q. And as far as construction, could you  
19 discuss for us the personnel that will be involved  
20 in construction of the project?

21 A. Yes. First off, there's going to be a  
22 construction manager who will manage construction  
23 and field activities during construction for the  
24 owner, Minnkota. Next, we have the survey team that  
25 will provide a staking of structural locations, the

1 right-of-way boundaries and also marking of  
2 environmentally-sensitive areas that need to be  
3 avoided.

4 Then we'll have a tree clearing and  
5 fencing contractor that will clear areas along the  
6 right-of-way, replace or move fencing, if required,  
7 and install gates and fencing to provide right-of-  
8 way access for construction and maintenance.

9 Next will be a foundational contractor  
10 that will install drilled pier concrete foundations  
11 for each structure. Then we'll have a line  
12 contractor that will install the structures and  
13 actually build the line. And then also out there  
14 we'll have field engineers and environmental  
15 inspector and construction inspectors that will  
16 monitor construction and ensure that the line is  
17 built to design and construction specifications.

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

21 A. Yes, there are. There have been  
22 environmentally sensitive areas that have been  
23 identified as requiring construction in an  
24 off-season period. The Missouri River Basin and the  
25 Alkali Flats native grassland areas are good

1 examples of these. Some areas that have a higher  
2 density of wetlands will be constructed off-season  
3 for ease of construction efforts and to help  
4 facilitate less disturbance to the ground during  
5 those construction activities.

6 Q. And will Minnkota conduct environmental  
7 monitoring during construction of the project?

8 A. Yes. Monitoring will be conducted  
9 throughout the construction period. Prior to any  
10 construction personnel working in any area, all the  
11 identified environmentally sensitive areas will be  
12 clearly marked in order to prevent disturbance. In  
13 addition, construction personnel will all be trained  
14 in the recognition and handling of environmentally  
15 sensitive areas, what to avoid or what to do if an  
16 unexpected area or artifacts are uncovered, and the  
17 project will also have an environmental inspector  
18 assigned full-time.

19 Q. And what are the steps that are involved  
20 in construction of this particular project?

21 A. The major phases are the right-of-way  
22 preparation, the actual construction of the line  
23 itself, and then a restoration phase.

24 Q. Could you walk us through each of those  
25 phases, starting with the right-of-way preparation

1 and letting us know what those involve?

2 A. In the right-of-way preparation, the  
3 right-of-way is periodically marked to identify the  
4 edges of the right-of-way. The sensitive areas will  
5 be marked to prevent inadvertent disturbance during  
6 the construction. The trees and shrubs will be  
7 cleared. Moving aside good topsoil in the  
8 agricultural areas, staking of specific structural  
9 locations. There will be some compaction of  
10 specific work areas within the right-of-way and then  
11 access points along the roads and ditches, et  
12 cetera, may be graded to allow access to the right-  
13 of-way.

14 Q. Could you discuss the construction  
15 process?

16 A. Yes. In the construction process fence  
17 gates are installed or fences are moved or replaced  
18 just to allow access. The foundation contractor  
19 will then auger or drill out the foundation  
20 excavations and pour concrete for the foundations.  
21 Once that concrete has cured, the structure is then  
22 put together or framed and lifted into place and  
23 secured on the foundation. And then the wires  
24 are -- pardon me. And then the wires are strung  
25 through the structure and then set at the proper

1 tension, which is called stringing and sagging.

2 Q. And what steps will be taken to restore  
3 the right-of-way after construction?

4 A. After we are done with construction in any  
5 given area, the right-of-way gets cleaned up, so we  
6 take out all of the construction materials and  
7 spoils, those kind of things. The soil then gets  
8 de-compacted using deep soil techniques. Good  
9 topsoil is then pushed back into place and returned  
10 to the preexisting grade. And then temporary access  
11 measures, if they were installed, then get removed  
12 and then there will be a review with the landowner  
13 following work to make sure that that restoration  
14 was done correctly.

15 Q. And what steps will Minnkota take to  
16 minimize impacts during construction of the project?

17 A. There are a number of impacts that we try  
18 to minimize while we are out there. One is making  
19 sure that the right-of-way gets cleaned up and  
20 properly restored. Another concern is public safety  
21 around the excavations so the excavated sites will  
22 be filled the same day or will have the proper  
23 safety measures to prevent accidents.

24 Interruption of land use activities is  
25 another concern. The landowner liaison and the

1 right-of-way agents will work to inform landowners  
2 when construction will be in that area and work with  
3 landowners to minimize interruptions. We're also  
4 worried about interruption of sensitive areas. The  
5 construction contractors will be trained to identify  
6 those areas on what to do near them.

7 All the sensitive areas will be marked and  
8 there will be an environmental inspector to monitor  
9 construction activities. We're also worried about  
10 road traffic flow, so traffic plans will be  
11 developed and publicized so that the public knows  
12 where the construction activity will be, what roads  
13 we'll be using and when.

14 And then on the restoration side,  
15 compaction is a concern as well, and the  
16 construction contractors are contractually liable to  
17 de-compact the soil and will be monitored by the  
18 construction inspection team. Road maintenance is  
19 also a concern with the heavy equipment, so before  
20 conditions will be determined and agreed to with the  
21 county or township road supervisors and the  
22 construction contractors are contractually obligated  
23 to maintain the roads, which will also be monitored  
24 by the construction inspectors.

25 Q. Let's talk a little bit about the criteria

1 used to develop the route. Could you tell us what  
2 was considered from an engineering and design  
3 perspective during the selection of this route?

4 A. Yes. One was compliance with the Siting  
5 Act and siting criteria. Another was minimizing the  
6 environmental impacts. Another was addressing any  
7 agency concerns. Another was addressing landowner  
8 concerns and, lastly, feasibility from a design and  
9 construction perspective.

10 Q. And were the exclusion area, avoidance  
11 area, selection and policy criteria set forth in the  
12 Commission's rules considered by Minnkota when  
13 selecting the proposed route?

14 A. Yes, they were. A discussion of those  
15 criteria is provided in Section 3 of the Route  
16 Permit Application, and the exclusion and avoidance  
17 areas will be discussed further by the next witness,  
18 Mr. Brian Hunker.

19 Q. And were the factors set forth in North  
20 Dakota Century Code Section 49-22-09 considered when  
21 selecting the project route?

22 A. Yes, they were. Discussion of those  
23 factors is provided in Section 7 of the Route Permit  
24 Application.

25 Q. Let's talk a little bit about the route

1       itself. And if you'll look at what's been  
2       previously marked and admitted as Exhibits E1  
3       through E10, can you identify those documents for  
4       us?

5             A.     Yes. Exhibit Echo 1 through Echo 10 are  
6       the route maps showing the corridor and the route  
7       centerline.

8             Q.     And we'll focus, as we have talked about  
9       before, on the area closest to this hearing, so  
10      we'll be talking about E4 through E7.

11                    Could you please walk the Commission  
12      through the route selection process, referring to E4  
13      through E7?

14             A.     Yes, I will. And I'll try to point as we  
15      go along to the maps for those behind me, as well.  
16      When we were -- at the corridor hearings we talked  
17      about the fact that the route in general had four  
18      major areas, one was the western terminus at the  
19      Center Substation; one was the eastern terminus at  
20      the Prairie Substation. Then we had two critical  
21      crossing points. One was at the Missouri River, one  
22      was at the Sheyenne River. And then that basically  
23      brought us to the corridor that was issued with the  
24      Certificate of Corridor Compatibility. For the most  
25      part, we have just gone down the middle of that

1 corridor so I'll focus most of the discussion on  
2 those expanded corridor areas and the selection  
3 process inside those.

4 Beginning on the left-hand side of map  
5 Echo 4, you're basically coming into the eastern  
6 portion of Sheridan County and this was one of the  
7 areas to where at the corridor hearings we had  
8 discussed and heard a number of testimonies  
9 regarding -- to the potential to move that line  
10 down, down closer to the section line in that area,  
11 and that was one of the expanded corridor areas.

12 Well, on the left-hand side of Echo 4,  
13 what is driving that area is the wind farm -- the  
14 proposed wind development that's in that area and  
15 the agreements with OTESCO as to where the routing  
16 would be. And then once we move over a little bit  
17 into Boone Township, you can see that we move down  
18 to the section line for as much as possible. There  
19 is in Crystal Lake Township a little bit of a jog  
20 back up away from the section line. That is due to  
21 two large water bodies in that area so we had to get  
22 north of those and then we drop back down to the  
23 section line.

24 Then we come into the first of the larger  
25 expanded areas when we were in Wells County. This

1 area, once it was expanded out, we looked at a  
2 number of different options. We had about four of  
3 them that from a design perspective we began to  
4 develop and look at. And early on in that process a  
5 group of landowners with interests in this area had  
6 asked to meet with us and they had proposed going  
7 down the 11th Street route, if you will, basically,  
8 right in the middle of that corridor, corridor  
9 expansion item. That was one of the ones that we  
10 were looking at anyway, so we took a harder look at  
11 that, put a little bit more of priority on that one.  
12 And what we found on that 11th Street is that it met  
13 all the siting criteria -- pardon me -- and also had  
14 a little less impact on land use than the original  
15 corridor, which was up by 12th Street, basically, a  
16 mile north. In other words, it had a little less  
17 impact on the cropland through the area, having a  
18 slightly less percentage of cropland.

19 There was also an occupied residence that  
20 was up near 12th Street that we got much further  
21 away from, so that kind of drove us going down that  
22 11th Street corridor then that shifting back up to  
23 the north side of that corridor and going over to  
24 the right side of Exhibit Echo 4. That brings us on  
25 the left side of Exhibit Echo 5 where, basically,

1 again, we're on that northern portion of that  
2 expanded corridor region and, again, really being on  
3 the northern side there had to do with the occupied  
4 residences that are along Highway 52 there and the  
5 fact that we had very good landowner support in  
6 terms of obtaining options through that eastern  
7 portion of that expanded corridor.

8           And that just basically puts us back into  
9 the middle of the corridor, all the way to the  
10 right-hand side of Exhibit Echo 5 where there is an  
11 expanded corridor portion in there. And one of the  
12 ones that we're talking about and I'll talk in a  
13 little bit more detail about that when we put up  
14 exhibits later on in just a little bit.

15           And then that brings us over into Eddy  
16 County on Exhibit Echo 6 where we have a large,  
17 expanded corridor in that area. In that area we  
18 had -- once that expanded corridor came out, we had  
19 developed three options. To go through that, one  
20 was a northerly option, one was a more southerly  
21 option and one was basically the option that we have  
22 the route centerline on now.

23           The northern option had the challenge of a  
24 number of large wetlands that are basically right in  
25 the middle of that expanded corridor area. The

1 southerly option had the challenge of the occupied  
2 residences down in that area. And on the eastern  
3 portion of that expanded corridor region there are a  
4 number of center pivot irrigation systems. And then  
5 the original proposed corridor was the one we got a  
6 very high percentage of landowner acceptance on and  
7 so that one was the one that had the least amount of  
8 impact going through that area.

9 That takes us over to Exhibit Echo 7. Can  
10 we leave Echo 6 up, please? Going through Echo 7,  
11 we're basically right in the middle of the corridor  
12 there. Now, I would like to point out that -- I  
13 know we talked about the expanded corridor region  
14 that is on Echo 6 a lot when we had the Grand Forks  
15 hearing earlier this week. Since that time we have  
16 had discussions with one of those landowners and are  
17 actively involved in conversations to look at an  
18 alternative on that landowner's property.

19 Q. And just to clarify, is that Mr. Topp that  
20 you're referencing that testified at the last  
21 hearing?

22 A. Yes, that's Mr. Jeff Topp.

23 Q. Jeff Topp. Yep.

24 A. That's correct.

25 Q. And the intent is, then, to file a

1 late-filed exhibit to address what routing  
2 preference Minnkota will present to the Commission;  
3 is that right?

4 A. Yes, and that's after the opportunity to  
5 take a look, you know, with those proposed -- those  
6 proposed alternatives from not only a design, but  
7 also a cultural and then an economic perspective.

8 MS. SMITH: All right. So we would have a  
9 late-filed exhibit, I guess. At this point it will  
10 be late-filed Exhibit R, I believe. I think that's  
11 where we're at.

12 JUDGE HOBERG: Yes, that's correct. So R  
13 will be late-filed?

14 MS. SMITH: Yes.

15 JUDGE HOBERG: All right. And that will  
16 deal with the Jeff Topp modification?

17 MS. SMITH: Yes. And it will be whatever  
18 they decide, agree to at that point or decide to do,  
19 present.

20 JUDGE HOBERG: Please continue.

21 Q. (MS. SMITH CONTINUING) And then if you  
22 will look at what's been previously marked as  
23 Exhibit F, can you identify Exhibit F for us? And I  
24 think it's a separate exhibit.

25 A. Yes, Exhibit Foxtrot are the plan and

1 profile drawings that show the final structural  
2 locations.

3 Q. And then if you'll look at what's been  
4 previously marked and admitted as Exhibit G, can you  
5 identify that exhibit for us?

6 A. Yes. It's exhibit -- calls for the  
7 proposed corridor modifications.

8 Q. And focusing on it will be G3 for this  
9 particular hearing, could you talk about the  
10 corridor modification that's been requested by the  
11 Commission?

12 A. Yes. The one corridor modification in  
13 this area is depicted on Golf 3. This is one that  
14 Mr. Hennes was talking about, as well. This was an  
15 area where the original proposed corridor going  
16 through -- we did find some evidence of cultural  
17 artifacts along that. We had some concerns about  
18 working through the wetlands that were in that area.  
19 You know, and then the landowner approached us and  
20 asked -- one of the many landowner requests -- if we  
21 could shift the route on that landowner's property  
22 to the northern side of the property, and that route  
23 having a less impact to the environment and being on  
24 that landowner's property was an option that we  
25 granted through that area. That did -- when we had

1 that conversation with that landowner, that did put  
2 it outside of the existing corridor.

3 Q. And I believe you mentioned the wetlands.  
4 Are there also cultural resource issues along the  
5 original proposed routes in this area? I may have  
6 missed it.

7 A. Yes.

8 Q. All right. And I believe there's one  
9 other area that we haven't talked about previously  
10 where Minnkota may be considering another change to  
11 the route and would also require a corridor  
12 modification. And that's in Grand Forks County; is  
13 that right?

14 A. Yes, there is. And that's best seen on  
15 Exhibit Golf 4. Actually, Golf 4 just shows a  
16 portion of this. The landowner that owns the land  
17 just south, if you look in the middle of Golf 4, we  
18 are coming up on the western portion of the  
19 corridor. This is an area where we had expanded the  
20 corridor. It borders the Alkali Flats area. The  
21 landowner that would be just on the bottom of that  
22 has asked us to consider moving that, a shift to the  
23 east, more south. Right now the shift occurs just  
24 north of that landowner's property. That landowner  
25 is asking us to shift on their property, but what

1 that would do is that would further take us down --  
2 it would make us have to expand the corridor to the  
3 east further south than we have requested.

4 Q. And as I understand the request of the  
5 landowner, it's essentially taking -- instead of  
6 taking a corner that goes north and then cuts east,  
7 you would cut east and then cut north; is that  
8 right? It's almost like a flip of what you're doing  
9 now; is that right?

10 A. Yes.

11 Q. All right.

12 A. Yes, that is correct. It's the same cost  
13 on that and we do have to evaluate that from a  
14 cultural and environmental perspective and we need  
15 to look at the design on that. It looks like a  
16 fairly simple shift that is all on that landowner's  
17 property.

18 MS. SMITH: And we would like to submit a  
19 late-filed exhibit on that, as well, and that would  
20 be late-filed Exhibit S, I believe.

21 JUDGE HOBERG: All right. So that will  
22 deal with that G4 modification?

23 MS. SMITH: Yes.

24 JUDGE HOBERG: To the corridor?

25 MS. SMITH: It would be a corridor end of

1 route modification, yes.

2 THE WITNESS: We would have to provide a  
3 map that is like Golf 4, but goes further south  
4 somewhere.

5 JUDGE HOBERG: Just for the record, then,  
6 unless there's an objection, late-filed Exhibit R  
7 and S will be admitted when filed.

8 MR. SAGSVEEN: I don't have any objection,  
9 I don't think, but I would like to just clarify  
10 something, if I might?

11 JUDGE HOBERG: Sure.

12 MR. SAGSVEEN: Are you -- did I hear that  
13 right, that you would -- you plan on doing  
14 additional studies in this area for cultural  
15 resources?

16 MS. SMITH: No, not additional studies.  
17 We just need to analyze and confirm that additional  
18 studies are not required in this area.

19 MR. SAGSVEEN: And if you determine that  
20 additional studies are required, then would you file  
21 another late-filed exhibit, or what process would  
22 you use then?

23 MS. SMITH: We would have to take that  
24 into consideration and whatever needs to be done  
25 would be identified in the late-filed exhibit and we

1 would explain whether additional information needs  
2 to be provided or not at that time.

3 JUDGE HOBERG: So you would include it in  
4 the late-filed Exhibit S then?

5 MS. SMITH: Well, I think that we can't  
6 say we would include something until we know whether  
7 we need it. If needed, we'll provide it. If not,  
8 we won't. I mean, we'll explain the rationale for  
9 why we're proposing what we're proposing at that  
10 time.

11 MR. SAGSVEEN: Okay.

12 JUDGE HOBERG: All right. Please  
13 continue.

14 MS. SMITH: I have no further questions.

15 JUDGE HOBERG: Thank you, Ms. Smith.

16 Mr. Sagsveen, please.

17 MR. SAGSVEEN: I don't think I have any  
18 questions, but I'll probably just note for the  
19 record that I don't believe I'll have an objection  
20 to the Jeff Topp modification for Exhibit R.

21 JUDGE HOBERG: Do we know what that is  
22 yet?

23 MR. SAGSVEEN: Well, it's been described  
24 as a map, potential map as a late-filed exhibit.

25 JUDGE HOBERG: Right.

1 MR. SAGSVEEN: With Exhibit S you asked me  
2 to -- whether I had any objection to Exhibit S.

3 JUDGE HOBERG: Actually, I asked them  
4 both. I did say Exhibit R and S.

5 MR. SAGSVEEN: I'm sorry. I didn't hear.

6 JUDGE HOBERG: So you don't have an  
7 objection to either of those, other than your  
8 concern about the explanation?

9 MR. SAGSVEEN: Right.

10 JUDGE HOBERG: All right. Thank you.

11 MR. SAGSVEEN: I don't have any additional  
12 questions.

13 JUDGE HOBERG: Thank you. Mr. Lien.

14 MR. LIEN: No questions, Your Honor.

15 JUDGE HOBERG: Commissioner Clark, please.

16 COMMISSIONER CLARK: I just have one.

17 EXAMINATION

18 BY COMMISSIONER CLARK:

19 Q. On E4 there is an occupiable residence  
20 towards the very east end of that map. Is that --  
21 is that an occupied residence? Has the 500-foot  
22 waiver -- has that waiver been signed?

23 A. Yes, it has.

24 COMMISSIONER CLARK: Okay. Thank you.  
25 That's all I have.

1 JUDGE HOBERG: Thank you, Commissioner  
2 Clark.

3 Commissioner Cramer, please.

4 COMMISSIONER CRAMER. No questions. Thank  
5 you.

6 JUDGE HOBERG: Thank you. Commissioner  
7 Kalk, please.

8 COMMISSIONER KALK: I actually have a  
9 couple.

10 EXAMINATION

11 BY COMMISSIONER KALK:

12 Q. Duane, thank you for your testimony. The  
13 late-filed exhibit from Mr. Topp, the concern I  
14 would have is, is it all going to be on his  
15 property? Can you at least -- because if it's not  
16 all on his property, that opens up a whole new set  
17 of questions.

18 A. Well, there have been a number of  
19 alternatives that have been looked at. The  
20 alternatives discussed, yes, they -- with Mr. Jeff  
21 Topp, they were all on Mr. Topp's property.

22 Q. Okay. Just maybe during the break I'll  
23 talk to our attorney, because if it's not on his  
24 property, we'll have to address that, I think, in a  
25 different way.

1 JUDGE HOBERG: And he had offered it to be  
2 on his property; correct?

3 THE WITNESS: Yes.

4 COMMISSIONER KALK: I just wanted to make  
5 sure I put that on the record, that if it's not all  
6 on his property, that opens up a whole new set of  
7 questions.

8 JUDGE HOBERG: Right, involving other  
9 landowners.

10 COMMISSIONER KALK: Correct.

11 Q. (COMMISSIONER KALK CONTINUING) And then  
12 the second question, you said in your testimony  
13 you're going to develop traffic plans. With who?  
14 Are you going to talk to the county commissioners,  
15 local law enforcement, or are you guys just going to  
16 do it yourself?

17 A. Well, we've -- we've already had the  
18 conversations with township officials and with  
19 county officials and with the road supervisors in  
20 most of those areas to address their concerns  
21 through the information, the public meeting and  
22 conditional use permitting process, so we've already  
23 had conversations with them.

24 Q. I just want to make sure you're involving  
25 all the local folks?

1 A. Yes. Yes, we are.

2 Q. Okay. Thank you.

3 A. Once we have those plans developed,  
4 they'll be sent to them so they have a chance to  
5 look at them and comment on them before we do  
6 anything else with them.

7 COMMISSIONER KALK: Thank you.

8 JUDGE HOBERG: Thank you, Commissioner  
9 Kalk. Any further questions of  
10 Mr. Phillips?

11 MS. SMITH: No, Your Honor.

12 JUDGE HOBERG: Any further questions?

13 MR. SAGSVEEN: No, Your Honor.

14 JUDGE HOBERG: Thank you, Mr. Phillips.

15 THE WITNESS: Thank you.

16 JUDGE HOBERG: I think it's appropriate at  
17 this time to take a ten-minute recess. We'll be  
18 back at about a quarter after, so we're recessed for  
19 10 minutes.

20 (Recess was taken.)

21 JUDGE HOBERG: We'll go back on the  
22 record.

23 I've got the attendance sheet up here.  
24 Anybody not sign the attendance sheet out in the  
25 audience? Apparently, everybody has. If you

1 haven't, please come up during the luncheon recess.  
2 We want to have a record of who is all here.

3 So Ms. Smith is calling her next witness,  
4 Mr. Hunker. I need to swear you in. And you heard  
5 the admonition I gave in regard to perjury; correct?

6 THE WITNESS: Yes, I did.

7 JUDGE HOBERG: Being advised of the  
8 penalty for perjury, do you promise to tell the  
9 truth in this matter being heard? If so, answer I  
10 do.

11 THE WITNESS: I do.

12 JUDGE HOBERG: Thank you. Ms. Smith,  
13 please.

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

17 DIRECT EXAMINATION

18 BY MS. SMITH:

19 Q. Could you please state your name for the  
20 Commission.

21 A. Brian Hunker.

22 Q. And who are you employed by?

23 A. HDR Engineering.

24 Q. And what is your business address?

25 A. 701 Xenia Avenue South, Suite 600,

1 Minneapolis, Minnesota.

2 Q. And what is your educational background?

3 A. Received a bachelor's in science from the  
4 University of Wisconsin-Madison, and I have 10 years  
5 environmental consulting experience on energy  
6 projects.

7 Q. And could you tell the Commission about  
8 your work history?

9 A. Sure. Throughout my career, I have  
10 gained --

11 JUDGE HOBERG: Just a second, please,  
12 Mr. Hunker. Are we getting that back there? You  
13 asked to turn the volume up a little bit. Is it  
14 coming through back there? A little bit higher.  
15 Okay.

16 MS. SMITH: And, Brian, you may need to  
17 slow down a little.

18 THE WITNESS: Gotcha.

19 JUDGE HOBERG: Please continue,  
20 Mr. Hunker.

21 THE WITNESS: Sure. Throughout my career  
22 I have gained project management compliance and  
23 permitting experience working on lineal energy  
24 transmission projects, transmission and pipeline  
25 projects. I have a broad understanding of the

1 regulatory framework relating to federal, state  
2 environmental review documents. I've led routing  
3 studies, gathered environmental and land use data  
4 through windshield and field surveys. I have  
5 analyzed data and GIS, participated in public  
6 meetings, stakeholder outreach and public open  
7 houses.

8 Q. And what is your role with respect to the  
9 project that is the subject of today's hearing?

10 A. Environmental consulting project manager.

11 Q. And so in that role, were you involved in  
12 the environmental analysis of the project route?

13 A. Yes.

14 Q. And you were also involved in preparation  
15 of the Route Permit Application?

16 A. Yes.

17 Q. We'll talk a bit about the compliance with  
18 the siting rules. Could you please discuss whether  
19 there are any exclusion areas crossed by the project  
20 route?

21 A. Sure. As shown in Table 3.1-1 of the  
22 Route Permit Application, there's one exclusion area  
23 that will be spanned by the project. This exclusion  
24 area are areas critical to the life stages of  
25 threatened and endangered species. In particular

1 this is the critical habitat for the federally  
2 threatened piping plover. The Missouri River is  
3 designated critical habitat for the piping plover  
4 and the project will span the Missouri River. It is  
5 important to note that there will be no direct  
6 impacts to the critical habitat as structures will  
7 be placed approximately 150 feet back from the  
8 river's edge. Minnkota will not construct across  
9 the Missouri River during the piping plover's  
10 typical breeding season, and during construction no  
11 equipment will be located within the Missouri River.

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

19 Q. And can you please discuss whether there  
20 are any avoidance areas that are crossed by the  
21 project route?

22 A. Sure. The avoidance areas crossed by the  
23 project route are discussed in Table 3.2-1 of the  
24 Route Permit Application. And I will briefly  
25 discuss those avoidance areas and how the project

1 will avoid them.

2 First are designated or state wildlife  
3 management areas. There's one wildlife management  
4 area, the Wilbur Boldt WMA, that will be spanned by  
5 the project and Minnkota has coordinated with the  
6 North Dakota Game and Fish Department and no  
7 structures will be located within and no lines will  
8 cross the WMA.

9 Minnkota has obtained an overhang easement  
10 from the North Dakota Game and Fish Department and  
11 access will be maintained and recreational activity  
12 may continue.

13 Second criteria are historical resources  
14 not designated as exclusion or avoidance areas.  
15 There are two types of cultural resources along the  
16 project route: Archaeology sites and architectural  
17 sites. Archaeology sites are those typically on the  
18 ground surface or below the surface. Architectural  
19 sites are a historic building or structure.

20 So there are 29 archaeological sites  
21 identified within the project right-of-way. Twelve  
22 structures will be located within six archeological  
23 site boundaries. Structure locations will avoid  
24 impacts to site features. So you can think of a  
25 site boundary as drawn around a cluster of features

1 and a feature would be a stone circle or cairn. So  
2 in other words, a site isn't completely filled with  
3 resources, but has holes and the structures will be  
4 placed within these areas without features.

5 Minnkota is coordinating with the State Historic  
6 Preservation Office on these structural locations.

7           There are 36 architectural resources that  
8 are identified in the project's Architectural Area  
9 of Potential Effect or APE, and that's defined as a  
10 half-mile on either side of the project right-of-way  
11 centerline and one mile on either side of the  
12 project right-of-way centerline at the Missouri  
13 River crossing. Of these properties, one property  
14 was listed on the National Register of Historic  
15 Places and nine are recommended as eligible for  
16 listing.

17           One historic structure that is eligible  
18 for listing on the National Register of Historic  
19 Places has been identified as being adversely  
20 visually affected by the project. And mitigation  
21 will be implemented to minimize the visual impact.  
22 This mitigation will be screening with vegetation  
23 and the SHPO has concurred with the mitigation,  
24 proposed mitigation.

25           Third avoidance area are facilities -- is

1 the facility within 500 feet of a residence.  
2 Minnkota developed a route to avoid occupied homes  
3 by maximizing setbacks to the extent practical. In  
4 some instances it was preferable for the project  
5 route to pass within 500 feet of an occupied  
6 residence due to other routing factors.

7           Nine occupied or vacant, but habitable,  
8 residences are within 500 feet of the transmission  
9 facility. One vacant, not habitable, home is  
10 located within the project route. It will be  
11 removed.

12           Minnkota has obtained waivers of the  
13 500-foot setback requirement for the nine occupied  
14 or habitable homes and the one vacant, not habitable  
15 home.

16           Fourth avoidance criteria are water  
17 sources for organized rural water districts.  
18 McClusky Canal will be crossed by the project route  
19 at two locations. One structure will be placed on  
20 the uplands of the canal, and no direct impacts to  
21 the McClusky Canal or water available for rural  
22 water districts are anticipated. Minnkota will  
23 obtain a Special Use Permit from the United States  
24 Bureau of Reclamation for spanning the canal at one  
25 location and installing one structure in the canal

1 lands at the second location.

2 Rural water pipelines are potentially  
3 present and no impacts are anticipated as Minnkota  
4 will survey for the underground utilities to avoid  
5 impacts.

6 Fifth avoidance area are areas of  
7 recreational significance not designated as  
8 exclusion areas. The North Country National Scenic  
9 Trail, the Lewis and Clark National Historic Trail  
10 and the Chain of Lakes Recreation Area, McClusky  
11 Canal, will be crossed by the project route.  
12 Minnkota will span the trails and the Chain of Lakes  
13 Recreation area. No structures will be located  
14 within the Chain of Lakes Recreation area, and  
15 Minnkota will obtain a Special Use Permit from the  
16 U.S. Bureau of Reclamation for spanning the Chain of  
17 Lakes Recreation area.

18 Visual impacts have been minimized by  
19 placing structures away from features to the extent  
20 practical. And access to these resources will be  
21 maintained so that recreational activities may  
22 continue.

23 There are no reasonable alternatives to  
24 crossing these resources since the trails run along  
25 the Missouri River and the McClusky Canal. The

1 project route will cross the Missouri River near an  
2 existing transmission line and will cross the Chain  
3 of Lakes Recreation area parallel to State Highway  
4 41.

5 Q. And will any significant adverse effects  
6 resulting from the location, construction and  
7 operation of the project as they relate to the  
8 selection criteria set forth in the Commission's  
9 rules be at an acceptable minimum or managed and  
10 maintained at an acceptable minimum?

11 A. Yes, they will. You can see Section 3.3  
12 and Table 3.3-1 of the Route Permit Application for  
13 the selection criteria.

14 Q. And if you'll look at what's been  
15 previously marked and admitted as Exhibit H, could  
16 you identify that exhibit for us?

17 A. Yes. Exhibit H contains updated versions  
18 of Section 4.1, which is a general route  
19 description, and Table 5.17-1 of the Route Permit  
20 Application. And Table 5.17-1 is a summary of  
21 impacts.

22 Q. And could you, in general terms, explain  
23 what was updated in those two portions of that  
24 exhibit?

25 A. Yes. The updates take into account the

1 alignment modifications identified in Exhibit B and  
2 the final structure placements provided in Exhibit  
3 F. Examples of the updates include a reduction in  
4 the number of homes within 500 feet of the facility  
5 from eleven to ten. One-acre increase in prime  
6 farmland impacts. One less structure in a  
7 floodplain, therefore, slight reduction in  
8 floodplain impact, but overall the changes are minor  
9 from what was filed in the application.

10 Q. Let's talk a bit about the studies  
11 conducted for this project. Could you discuss what  
12 studies were conducted and when the records  
13 associated with those studies were filed?

14 A. Sure. A number of environmental studies  
15 were conducted over the course of developing the  
16 project corridor. The studies that were filed with  
17 the Certificate of Corridor Compatibility  
18 application include the macro-corridor study,  
19 scoping report, environmental assessment with  
20 scoping, Class I -- Cultural Resources Class I  
21 literature source and a raptor nest survey.

22 Additional environmental studies were  
23 conducted during the development of the project  
24 route. The reports associated with some of these  
25 studies were provided with the route application and

1 these include the deeply buried site reports,  
2 historic building inventory and evaluation report,  
3 Sheyenne River hydrology 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 hearing. And these  
7 reports include the historic property treatment  
8 plan, revised architectural APE technical memo,  
9 Class III cultural resources inventory report and  
10 two addendums to that report, a deeply buried site  
11 technical memo, wetland delineation report and one  
12 addendum and a tree sampling plan.

13 Q. And just starting with one of the reports  
14 that was filed with the Route Permit Application,  
15 the Historic Building Inventory and Evaluation  
16 report, could you explain what was contained in that  
17 report?

18 A. Sure. The Historic Building Inventory  
19 Report was filed as Appendix E in the Route Permit  
20 Application, and the Rural Utility Service and North  
21 Dakota SHPO requested that the project consider  
22 potential effects to historic buildings and  
23 structures. The goal of this survey was to provide  
24 information regarding the type, distribution of  
25 historic structures within the architectural APE.

1                   And the inventory identify 36  
2 architectural resources within the APE and one would  
3 be adversely visually affected. Mitigation will be  
4 implemented to minimize this visual impact and SHPO  
5 has concurred with the mitigation.

6           Q.     And if you'll look at what's been marked  
7 and admitted as Exhibit I, is that the treatment  
8 plan for this one particular property that may be  
9 impacted that was agreed to or concurred with by  
10 SHPO?

11          A.     Yes, it's the report and a concurrence  
12 letter.

13          Q.     And then let's just talk briefly about the  
14 reports that have been finalized since the Route  
15 Permit Application was filed. And if you'll look at  
16 what's been previously marked and admitted as  
17 Exhibit J, can you identify that exhibit for us?

18          A.     Yes, Exhibit J is a revised architectural  
19 APE tech memo with SHPO concurrence.

20          Q.     And could you discuss the findings and any  
21 conclusions in that tech memo?

22          A.     Yes, this technical memo is an update to  
23 the History Building Inventory that was provided in  
24 Appendix E of the Route Permit Application and  
25 covers the revised architectural APE due to

1 alignment shifts within the modified corridor areas.  
2 This study found that all the buildings documented  
3 within the revised APE did not have sufficient age  
4 or integrity to merit the consideration as a  
5 historic property, and SHPO concurred with this  
6 conclusion.

7 Q. And then if you'll look at what's been  
8 previously marked as Exhibit K, and it's actually a  
9 separate exhibit from the main binder, can you  
10 identify what that exhibit contains?

11 A. Exhibit K contains the Class III Cultural  
12 Resources Inventory, two addendums to that inventory  
13 with SHPO concurrence letters.

14 Q. And could you just discuss briefly the  
15 overall conclusions of those three reports?

16 A. Sure. The Class III identified 29  
17 archaeological sites within the project  
18 right-of-way. Eight sites were within SHPO's  
19 database and 21 were previously unrecorded.  
20 Structural locations will avoid impacts to site  
21 features and SHPO concurred with the inventory's  
22 determinations of no historic properties affected,  
23 no significant sites affected, as well as the  
24 recommendations regarding remaining shovel-testing,  
25 avoidance areas and national register status.

1 Q. And if you'll look at what's been  
2 previously marked as Exhibit L, and it's also been  
3 admitted, can you tell us what that exhibit is?

4 A. Yes, it is the deeply buried site  
5 technical memo with SHPO concurrence.

6 Q. And what's the purpose of that technical  
7 memo?

8 A. It's an update to the deeply buried site  
9 report that was provided in Appendix D of the Route  
10 Permit Application and covers the alignment shifts  
11 that were made after the initial report was  
12 completed.

13 Q. And then if you'll look at what's been  
14 previously marked and admitted as Exhibit M, can you  
15 identify that for us?

16 A. Yes, it's the wetland delineation report  
17 with one addendum.

18 Q. And could you discuss the overall findings  
19 and conclusions of those two reports?

20 A. Sure. The reports document 32 structures  
21 that will be located in wetlands causing  
22 approximately 107 acres of temporary impact and  
23 about 2,500 square feet of permanent impact. The  
24 permanent impacts will be permitted by the U.S. Army  
25 Corps of Engineers Nationwide Permit No. 12. And a

1 pre-construction notification will be filed  
2 approximately 45 days prior to construction.

3 Q. And if you'll look at what's been  
4 previously marked and admitted as Exhibit N, could  
5 you tell us what that exhibit is?

6 A. Yes. It's the tree inventory plan.

7 Q. And can you discuss the purpose of the  
8 tree inventory plan?

9 A. Yes. This plan outlines a process for  
10 identifying trees and shrubs in high-density areas  
11 within the 150-foot-wide right-of-way. And a tree  
12 inventory report and a tree replacement report will  
13 be developed and filed with the Commission.  
14 Minnkota will comply with the Commission's tree and  
15 shrub replacement specifications.

16 Q. And as far as cultural resource work, is  
17 there any work that has not yet been completed for  
18 the project route?

19 A. Yes, there are approximately 16 properties  
20 or about two miles of route remaining for shovel-  
21 testing and, in addition, we are going to evaluate  
22 the two potential route shifts that were presented  
23 earlier today.

24 Q. And just to clarify, you're going to  
25 evaluate, not necessarily that those have to have

1 additional testing done; is that right?

2 A. Correct. They may not need -- they may  
3 not need survey, but we're going to evaluate the  
4 need for that survey.

5 Q. All right. And if you'll look at what's  
6 been being marked as Exhibit O, and there's O1  
7 through 3, can you identify that exhibit for us?

8 A. Yes, these Exhibits, O1 through O3  
9 identify the areas requiring shovel-testing and they  
10 are identified in the yellow color, and I'll note  
11 that there's a slight overlap between the two maps  
12 so all areas remaining for shovel-testing are shown  
13 on Exhibit O1.

14 Q. And why has shovel-testing not yet been  
15 completed on those parcels?

16 A. Well, initially, Minnkota did not have  
17 permission to survey some parcels and once Minnkota  
18 obtained survey permission, pedestrian surveys were  
19 completed. And weather conditions, such as frozen  
20 ground, prohibited completion of shovel-testing on  
21 the areas shown in Exhibit O.

22 And shovel-testing is a standard  
23 methodology for archeological survey that determines  
24 whether soils contain cultural material not visible  
25 on the surface. So, typically, a soil is

1 hand-shoveled and screened to identify cultural  
2 material. When the ground is frozen, the screening  
3 process is very difficult to complete. So, in  
4 general, shovel-testing will confirm that a  
5 structure avoids impacting a site's features.

6 Q. And when do you anticipate that the  
7 remaining shovel-testing will be completed and a  
8 report prepared?

9 A. Shovel-testing will be completed in the  
10 spring of 2012 following ground thaw and a report  
11 addressing these areas will be prepared and  
12 submitted to SHPO once the shovel-testing is  
13 complete.

14 Q. And in addition to the formal studies that  
15 you've just discussed for us, are there any other  
16 surveys that are planned prior to the construction  
17 of the project?

18 A. Yes. We plan to do some pre-construction  
19 surveys that will help minimize -- I'm sorry. Pre-  
20 construction surveys will be conducted to help  
21 minimize impacts upon biological resources. These  
22 studies include the piping plover habitat survey,  
23 sharp-tail grouse lek surveys, grassland nesting  
24 bird surveys, Dakota skipper surveys and Raptor nest  
25 surveys.

1           Q.     And you've 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 correct?

5           A.     Correct.

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

8           A.     It is our understanding that the FONSI was  
9 signed yesterday.

10          Q.     All right.  And if you'll look at what's  
11 been marked as Exhibit P in the exhibit binder, and  
12 that's also been admitted, could you identify that  
13 document for us?

14          A.     Yes.  Exhibit P is an update to the  
15 permits and approvals checklist.

16          Q.     And, finally, in your opinion, based on  
17 your study and review, the exhibits and testimony  
18 presented here today and the siting statutes and  
19 rules, will construction of the proposed project  
20 produce minimal adverse environmental effects?

21          A.     Yes.

22                 MS. SMITH:  I have no further questions.

23                 JUDGE HOBERG:  Thank you, Ms. Smith.

24                 Mr. Sagsveen, please.

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

1       although I'm glad to hear that his prediction for  
2       the FONSI being completed in February was accurate  
3       at our last hearing.

4                JUDGE HOBERG: Thank you. Mr. Lien.

5                MR. LIEN: I'm debating whether to ask for  
6       that FONSI as a late-filed exhibit.

7                MS. SMITH: It's a condition to the order  
8       that copies of permits be provided.

9                COMMISSIONER CLARK: It's a good thing it  
10      was a leap year.

11              MR. LIEN: I have no questions, Your  
12      Honor.

13              JUDGE HOBERG: Thank you. Commissioner  
14      Clark, please.

15              COMMISSIONER CLARK: I have no questions.  
16      Thank you.

17              JUDGE HOBERG: Thank you. Commissioner  
18      Cramer.

19              COMMISSIONER CRAMER: I have no questions.

20              JUDGE HOBERG: Thank you. Commissioner  
21      Kalk. No questions.

22              No further questions of Mr. Hunker?

23              MS. SMITH: No, Your Honor.

24              JUDGE HOBERG: Thank you, Mr. Hunker.

25              THE WITNESS: Thank you.

1 JUDGE HOBERG: I think this would be an  
2 appropriate time when we're done with the  
3 applicant's case -- I assume you're complete.

4 MS. SMITH: Yes, except for rebuttal, if  
5 necessary.

6 JUDGE HOBERG: Correct. Yeah, there may  
7 be some rebuttal testimony after the public  
8 testimony, but that remains to be seen.

9 Again, I'm going to ask, anybody that  
10 didn't sign the attendance sheet? Did not sign the  
11 attendance sheet? Apparently, everybody did. When  
12 we return from lunch, which will be approximately  
13 one hour -- we'll start at approximately 12:30, I  
14 think, 12:35.

15 COMMISSIONER CLARK: Just under an hour.

16 JUDGE HOBERG: Let's start at 12:30. So  
17 we'll break for lunch and when we resume at 12:30,  
18 we'll take public testimony. So we'll stand  
19 recessed.

20 (Lunch recess was taken.)

21 JUDGE HOBERG: All right. Let's go back  
22 on the record. It's just about 12:30.

23 As I stated before the recess, this is the  
24 time for public testimony. I'm going to go right  
25 down the list and you'll come up here, please, and

1 sit at that table and I'll swear you in and then  
2 we'll go from there.

3 The first person I have listed is Kevin  
4 Horneman. Maybe I'm not pronouncing that right.  
5 Kevin Horneman, H-o-r-n-e-m-a-n. Not here? Okay.

6 The next would be Prairie and Ryan Topp.  
7 I don't know if you're coming up together or --

8 THE WITNESS: No, I can go.

9 JUDGE HOBERG: Okay. Am I reading that  
10 right, P-r-a-i-r-i-e?

11 THE WITNESS: Just like Little House on  
12 the Prairie.

13 JUDGE HOBERG: Just like Little House on  
14 the Prairie, Topp. Okay.

15 THE WITNESS: Prairie dog and prairie  
16 chicken.

17 JUDGE HOBERG: Okay. So Ryan is not  
18 coming up? It will just be you?

19 THE WITNESS: No, he'll decide later. I  
20 might be able to get all the questions addressed.

21 JUDGE HOBERG: Sure. Okay. As I said, I  
22 need to swear you in. Did you hear the admonition I  
23 gave in regard to perjury?

24 THE WITNESS: Mm-hmm.

25 JUDGE HOBERG: You need to say yes or no

1 when you respond, please.

2 THE WITNESS: Yes, I did.

3 JUDGE HOBERG: Okay. Thank you. Being  
4 advised of the penalty for perjury, do you promise  
5 to tell the truth in this matter being heard? If  
6 so, answer I do.

7 THE WITNESS: I do.

8 JUDGE HOBERG: Thank you. Why don't you  
9 state your name for the record. Tell us where you  
10 live, some background, and tell us what you want to  
11 tell us, please.

12 PRAIRIE TOPP,

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

15 STATEMENT BY PRAIRIE TOPP:

16 THE WITNESS: Okay. Prairie Anne Topp.  
17 And I am from Grace City, North Dakota, married to  
18 Ryan Topp. And my background, I've lived here now  
19 for about 15 years. And just have a couple  
20 questions and some comments about the corridor and  
21 the route that affects our land.

22 JUDGE HOBERG: Okay. I'm not going to  
23 guarantee that we answer the questions, but you can  
24 certainly state them and maybe they'll be addressed.

25 THE WITNESS: I was warned of that ahead

1 of time.

2 JUDGE HOBERG: Okay. Please.

3 THE WITNESS: Okay. So the first thing I  
4 did want to say is thank you. I've never been to  
5 one of these before and I didn't realize it would be  
6 such a friendly environment where you seem to  
7 genuinely care about our input and what we have to  
8 say, so I appreciate that very much.

9 And the reason we came this time is  
10 because my husband was here at the hearing in  
11 Carrington several months ago and originally had  
12 some definite concerns about the line coming across  
13 our land. Obviously, I don't think anybody here  
14 would say that the line increases value on land.  
15 Usually it decreases it and in some cases  
16 significantly, which is why I think so many  
17 landowners are emotionally vested in this argument.  
18 And when my husband came, he basically said we would  
19 really prefer it didn't come across our land. And  
20 after the hearing we were notified that the corridor  
21 was widened and that it would potentially affect  
22 more of our land and not less, and so that was our  
23 primary concern.

24 We, in fact, addressed the Commission in  
25 writing because we were under the impression that

1 the Commission had suggested that this south route  
2 occur and we were trying to understand why would the  
3 Public Service Commission, who, of course, is here  
4 for the public, not just individuals, would propose  
5 a change in the route that would affect more  
6 landowners and more property. But I've gathered  
7 some more information since and it appears that the  
8 corridor was widened so that Minnkota could do some  
9 more interviewing of the people affected and that,  
10 if I understand correctly, that south route was not  
11 chosen.

12 And I want to clarify that, that the  
13 proposed route to move south over more of our land  
14 is not going to occur; is that correct?

15 MS. SMITH: Well, I can say that the route  
16 is what has been depicted on the exhibit. So, for  
17 instance, I think it's Exhibit B shows the route.  
18 That's the route that's being proposed.

19 THE WITNESS: That's the original route  
20 that was proposed before?

21 MS. SMITH: There may have been a corridor  
22 shown, but there wasn't a route shown, if that makes  
23 sense.

24 THE WITNESS: Okay. I think so. I'm  
25 still trying to understand all of this. What I do

1 want to do is go on record that we would like to  
2 keep the original route. We didn't want it to come  
3 across our land. We did sign paperwork stating that  
4 we would allow it with very small -- basically, we  
5 asked for a few concessions and they granted them.  
6 They were very good to work with, but we don't want  
7 it to go across more of our land, and especially if  
8 the change is made to protect one individual and  
9 then has more damage to more land and more  
10 landowners.

11 JUDGE HOBERG: So, Ms. Smith, they should  
12 look at Exhibit E what?

13 MS. SMITH: It's not E. It's the overall  
14 route map --

15 JUDGE HOBERG: Oh, the overall route map.

16 MS. SMITH -- is what I was referring to.  
17 E6 shows it, as well.

18 THE WITNESS: So it's that purple line  
19 going across, that's the route that's being  
20 proposed?

21 JUDGE HOBERG: Correct.

22 MS. SMITH: And if you look at Exhibit C,  
23 that also will show you the entire route.

24 THE WITNESS: Okay.

25 JUDGE HOBERG: But closer detail would be

1 E6, did you say?

2 MS. SMITH: E6.

3 JUDGE HOBERG: Yeah, E6.

4 THE WITNESS: Okay. And that's what's  
5 being proposed today. So when will we know if  
6 that's the route that has been accepted or will  
7 actually happen?

8 JUDGE HOBERG: Well, when the Commission  
9 issues its final order, that will be the route that  
10 is designated.

11 THE WITNESS: Okay. It was mentioned as  
12 well that there would potentially be a further  
13 submission for another change. I want to know or I  
14 would like to know if that change is going to affect  
15 other landowners than the one who is submitting the  
16 change?

17 JUDGE HOBERG: Well, that was Commissioner  
18 Kalk's concern that it might, but the testimony at  
19 Grand Forks was that it was going to be on the land  
20 of that person who was testifying, Jeff Topp, and  
21 that negotiations are going on, ongoing, and there  
22 will be a late-filed exhibit on that. So we don't  
23 know at this point in time exactly where that route  
24 is going to be, is my understanding.

25 COMMISSIONER CLARK: Ms. Smith can

1 clarify, but as I understood the answer, it was that  
2 the negotiations that are ongoing are strictly  
3 involving that one landowner's land, not other  
4 adjacent landowners. Is that correct?

5 MS. SMITH: That is correct.

6 THE WITNESS: So there's no chance that  
7 this will be submitted and that other landowners are  
8 affected and a change is made without us having the  
9 right to say yes or no, we don't want that on our  
10 land?

11 JUDGE HOBERG: I believe that's correct,  
12 yes. At least that is what I understand Ms. Smith  
13 saying, it only affects that landowner.

14 THE WITNESS: Okay. Then those are my  
15 primary concerns and I think you've answered all my  
16 questions.

17 JUDGE HOBERG: Thank you. Ms. Smith, do  
18 you have any questions of Ms. Topp?

19 MS. SMITH: I do not. Thanks.

20 JUDGE HOBERG: Mr. Sagsveen.

21 MR. SAGSVEEN: No, Your Honor.

22 JUDGE HOBERG: Okay. Commissioner Clark.

23 COMMISSIONER CLARK: Maybe just a couple.  
24  
25

EXAMINATION

1

2

BY COMMISSIONER CLARK:

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4

5

Q. So the record reflects it correctly, could you describe -- I've got E6 up in front of me -- where your land and residence is?

6

A. The one that we have --

7

8

Q. I think I have a pretty good idea. Can you just describe the section?

9

10

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13

A. The one that we've already signed an easement to is Section 31, is on Section 31. The part that we were concerned it was going to affect was Section 2. The corridor was widened to affect -- to go down to Section 2 and we thought --

14

15

Q. All right. Section 2 on the other side of the county line, I think?

16

17

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25

A. South, correct, where it goes into Foster, I believe. So we were under the impression that because this corridor was widened, that the proposal, then, was to move the route away from specific land to avoid their property and instead come onto ours and other landowners. I mean, I'm not just speaking for myself. I'm speaking for a group of people. And I just wanted to make sure that that wasn't going to be the case, but it sounds like it's not and I --

1           Q.     Maybe it might be helpful if I describe a  
2 little bit about "corridor" and "route."  Sometimes  
3 even we sometimes use them interchangeably, even  
4 though they're not.  Basically, the corridor is the  
5 larger geographical area that first gets sited, and  
6 then the route is the actual line itself, which has  
7 to be sited within the corridor.  It can't be  
8 outside of the corridor.

9           The only reason for expanding the corridor  
10 in certain spots was done in the original corridor  
11 siting application and it wasn't just in this part  
12 of the line.  There were a number of other parts of  
13 the line where the corridor was expanded, was if the  
14 Commission had heard concerns from, really, any  
15 landowners in specific areas and we wanted to ensure  
16 that there were more routing options, not  
17 necessarily that the -- determine where the line  
18 could go, but there just, we felt, needed to be more  
19 routing options as the utility talked with  
20 landowners in an area, then the corridor was  
21 expanded, but it didn't predetermine anything.

22           A.     Okay.

23           Q.     So that's the rationale for having  
24 somewhat expanded corridors on different parts of  
25 the line.  We found it, I think, probably helpful,

1 especially in a number of other areas where  
2 accommodations were able to be made for landowners  
3 that might not have otherwise if you had a very  
4 narrow corridor that basically confined that route  
5 to within it. So that's the rationale for corridors  
6 and routes.

7 A. Mm-hmm.

8 Q. As far as timetables, and the Judge had  
9 noted this, the Commission won't make any decisions  
10 today. We'll take the information we hear here, as  
11 well as any other late-filed exhibits, and then we  
12 have an opportunity to have a work session and we'll  
13 schedule that within several weeks, probably, and  
14 then after work session, which is just our  
15 opportunity to talk amongst ourselves and with our  
16 staff, then we'll start working on an order, but  
17 it's probably a six- or eight-week process to get  
18 through that.

19 A. Okay. Thank you.

20 JUDGE HOBERG: Thank you, Commissioner  
21 Clark. Commissioner Cramer.

22 EXAMINATION

23 BY COMMISSIONER CRAMER:

24 Q. Thank you, Prairie, for your testimony. I  
25 might just add a little bit and I might have a

1 clarifying question or two.

2 In this particular situation, one of the  
3 things that becomes somewhat confusing is that when  
4 we get the original corridor application, it is --  
5 generally, the company understandably would apply  
6 for a corridor with the route, the proposed route or  
7 the planned route to be the centerline.

8 A. Mm-hmm.

9 Q. When we see a concern raised at a hearing,  
10 something, we may widen that corridor both ways to  
11 give maximum opportunity for options, but -- and I  
12 can understand why that might create some concern.

13 A. Well, especially for people who aren't, as  
14 myself, informed of the process or knowledgeable  
15 about it, and didn't understand that it didn't mean  
16 just because the corridor is being widened, that  
17 wasn't necessarily going to mean that the route was  
18 going to go across our land, so --

19 Q. I might even go so far to say in this  
20 particular case we probably asked for a wider  
21 corridor than necessary just to super maximize the  
22 opportunity and that probably does create some  
23 concern, and I understand that.

24 And, by the way, don't feel badly about  
25 not being well-informed, because I always say no one

1 knows what the Public Service Commission does,  
2 unless we do it poorly.

3 A. I found that out in the process. I didn't  
4 know you guys were around until we weren't happy  
5 about it and then we quickly looked you up.

6 Q. I'd like to get a little more information  
7 on specifically where your land is, though. Now,  
8 you said Section 31, which is to the -- that would  
9 be Section 31 to the east of the area under  
10 consideration, the next township to the east?

11 A. Well, now I might need my husband to come  
12 up and get very specific. It's Township 148 North,  
13 Range 63.

14 Q. Okay. And then the other one being  
15 Section 1, which is south --

16 A. Section 2.

17 Q. Section 2. Sorry.

18 A. Is where we winter our cows, the ones that  
19 are pregnant that have all the value inside of them  
20 that we do not want affected by this land -- by this  
21 line.

22 Q. I understand now.

23 A. Our livelihood, basically.

24 Q. I'm looking right at it. I just want to  
25 make sure I have a good orientation.



1 one that was going to be affected by the route.

2 MR. LIEN: Okay. Thank you.

3 JUDGE HOBERG: Anything further? Thank  
4 you very much.

5 THE WITNESS: Thank you.

6 JUDGE HOBERG: Okay. I had called on  
7 Kevin Horneman. Maybe he came back in.

8 MR. RYAN TOPP: Excuse me. I would look  
9 to do the other half.

10 JUDGE HOBERG: I'm sorry. You're Ryan  
11 Topp; right?

12 THE WITNESS: Yes.

13 JUDGE HOBERG: I thought maybe she was  
14 speaking for you. I apologize. Come on up, please.

15 COMMISSIONER CRAMER: Most of the time;  
16 right?

17 JUDGE HOBERG: All right. I need to swear  
18 you in, too, Mr. Topp.

19 You heard the admonition I gave in regard  
20 to perjury?

21 THE WITNESS: Yes, sir.

22 JUDGE HOBERG: Being advised of the  
23 penalty for perjury, do you promise to tell the  
24 truth in this matter being heard? If so, answer I  
25 do.

1 THE WITNESS: I do.

2 JUDGE HOBERG: And you're Ryan Topp, also  
3 of Grace City; correct?

4 THE WITNESS: Yes.

5 JUDGE HOBERG: All right. Please proceed.

6 RYAN TOPP,

7 having been first duly sworn, was examined and  
8 testified as follows:

9 STATEMENT BY RYAN TOPP:

10 THE WITNESS: Yes. One of my concerns  
11 would be not only the fact that the concerns we had  
12 with the reproductivity of our cattle was denied,  
13 you come across that land, but then on your proposed  
14 corridor, the increase in the size of your corridor,  
15 that affects us again where we winter our cattle.

16 And the question I have, and it seems --  
17 of course, it's become very personal in this  
18 community because decisions are being made and I'm  
19 here yet another day for this meeting, supposedly  
20 because of one neighbor. We've signed off because  
21 Minnkota agreed to some of the things that we asked,  
22 which we appreciated. But you then go ahead and  
23 cross where we winter all of our cattle currently at  
24 the expense of a neighboring request for something  
25 that he might do. And it was under our impression

1 when we met with Minnkota several times at our  
2 facility, that you couldn't say you were going to do  
3 something so that this power line couldn't go there  
4 and this appears to me that it obviously can happen.

5           So I guess with your proposed corridor,  
6 I'm under the impression that the original contract  
7 that we signed doesn't approve this increased  
8 corridor size because that increased corridor does  
9 indeed affect our land. Now, if one of our  
10 neighboring landowners claims that he's going to  
11 make a change on his land, then so be it, but one  
12 thing that's relatively confusing to probably about  
13 90 percent of the people in the room is this  
14 proposed change was an issue that was brought up in  
15 Grand Forks, not at a meeting here, and so had we  
16 been informed that this proposed change, which was  
17 supposedly Exhibit R, was going to be proposed, that  
18 would have been nice for us to know in order for us  
19 to make an informed decision.

20           And so I guess for us, in order for us to  
21 make an informed decision to sign another contract  
22 approving this wider corridor, I think everybody in  
23 the room probably deserves to see Exhibit R. And  
24 I'm a little confused as to why -- how this can be  
25 the last testimony and then Exhibit R is submitted

1 afterwards? And that would be a question that I  
2 would have for the Commission, if any one of you can  
3 answer that.

4 JUDGE HOBERG: Ms. Smith, perhaps you  
5 could explain again the situation with late-filed  
6 Exhibit R?

7 MS. SMITH: Well, I think what we'll  
8 probably do is we'll probably have somebody that can  
9 speak to that a little bit more when we have a  
10 rebuttal witness just to help clarify what's going  
11 on with that, if that would help.

12 JUDGE HOBERG: All right.

13 THE WITNESS: And I guess that's my only  
14 concern.

15 I do have one thing that's been burning  
16 inside of me since this last meeting, and I guess  
17 I'm going to say it in front of everybody in hopes  
18 that with you three gentlemen in front of me that  
19 your job is taken seriously and from a business  
20 aspect. It was said to me at the last meeting by a  
21 neighboring landowner that leaned up to me and said,  
22 "It helps to know the Commission by first-name  
23 basis." And it appears to me that that potentially  
24 is indeed happening. Now, if this landowner has  
25 decided now to make the change on his land, then I

1 congratulate him. If that's not the question, I  
2 question some of the decisions being made with this  
3 widened corridor. Thank you.

4 JUDGE HOBERG: Thank you. Just hold on,  
5 Mr. Topp. Ms. Smith, any questions?

6 MS. SMITH: I don't have any questions.

7 JUDGE HOBERG: Thank you. Mr. Sagsveen.

8 MR. SAGSVEEN: I don't think I have any  
9 questions.

10 JUDGE HOBERG: Commissioner Clark, please.

11 EXAMINATION

12 BY COMMISSIONER CLARK:

13 Q. Not so much a question, but maybe  
14 responding to a question that you had about Exhibit  
15 R. The Commission also has not seen Exhibit R at  
16 this point, so the only thing that came out of the  
17 Grand Forks hearing is we had public testimony,  
18 which is, of course, allowed and the person  
19 testifying is entitled to under the law. And so  
20 Exhibit R is just part of the negotiations right now  
21 that have gone on between Minnkota and that  
22 particular landowner, but that would be it.

23 A. Mr. Clark, in response to that answer,  
24 it's been brought up several times and Mr. Kalk  
25 brought it to the attention that if this does affect

1 just one landowner, then it's not an issue and I  
2 agree with you, but that corridor there, where you  
3 widened it, that is not on one landowner's land.

4 Q. And maybe I should clarify. I'll take  
5 another run at the corridor, too. I'm glad you  
6 mentioned that, because I was going to mention it,  
7 too.

8 The corridor itself simply by being there  
9 does not give the utility carte blanche to put the  
10 line wherever they wish to within that corridor.  
11 The corridor only says that we know it's not going  
12 to be anywhere outside of the corridor, but that it  
13 may be somewhere inside the corridor. The route  
14 itself has to separately be approved by the  
15 Commission, so whether the corridor is two miles or  
16 six miles, which is actually allowed under state  
17 law, but we've narrowed it significantly, the route  
18 separately still has to be approved. So whatever  
19 easements you've signed for a specific route  
20 location would not be affected by how wide or narrow  
21 the corridor is. Hopefully, that helps.

22 A. Okay. I do -- and I think I'm getting a  
23 little confused here, as well, because when you guys  
24 come with the proposed north or south route,  
25 Minnkota come to us with a new route going south and

1 new route going north. The proposed -- original  
2 proposed south route did affect our land. So if  
3 that is now -- if our neighboring landowner has now  
4 had private meetings or public meetings, whatever  
5 you want to say with you guys and that's changed,  
6 then it would help us to know that so that we can  
7 make an educated decision, because right now, I  
8 think everybody is quite confused with -- the issue  
9 is right now primarily one landowner and none of us  
10 seem to really know what's going on anymore and this  
11 is the final meeting so it gets relatively --

12 JUDGE HOBERG: Well, that was Commissioner  
13 Kalk's concern, that if did affect another  
14 private -- yeah.

15 COMMISSIONER KALK: It is a very confusing  
16 process, there's no question about it, because you  
17 have a wide corridor and the company comes back  
18 later with the route. Where we're at today, Exhibit  
19 E6, as it's portrayed up there, if you look at the  
20 one line, that's the route we're talking about  
21 today. So if you have concerns about that route,  
22 that's what we want to hear today. The question  
23 about the deviation around the other Mr. Topp's  
24 discussion, that's all enclosed in his land. If  
25 it's not, then I will have significant questions

1 about that.

2 THE WITNESS: At this point there's no  
3 legal description of where this line jots out then?  
4 At this point there's no --

5 JUDGE HOBERG: Are you talking about on  
6 Jeff Topp's land?

7 THE WITNESS: Correct.

8 COMMISSIONER KALK: My only concern would  
9 be that it's all on his property.

10 THE WITNESS: I appreciate that.

11 JUDGE HOBERG: And that's what we've been  
12 led to believe by Ms. Smith, that the negotiations  
13 are so that it's all on his property.

14 COMMISSIONER CLARK: And I think it's safe  
15 to say -- I mean, I can speak for myself, but I  
16 think my fellow Commissioners would concur, if there  
17 were -- if there were changes along a route that  
18 affected a number of different landowners after a  
19 hearing, that were submitted after the hearings were  
20 closed, especially knowing that there may be  
21 controversy in a particular area, we're not going to  
22 approve that without getting further information  
23 from the public. I mean, it's standard operating  
24 procedure for the Commission in anything like that  
25 where there are new landowners that are affected

1 that may not have had an opportunity to be heard  
2 before the Commission during a routing siting, that  
3 we're going to go back and ensure that they have an  
4 opportunity to be heard, too.

5 COMMISSIONER KALK: If I could, though,  
6 Your Honor, I'm not 100 percent sure that you're 100  
7 percent sure where exactly the line is going on your  
8 property. You should be able to get that answer  
9 today very easily by the maps and talking to the  
10 folks over there, because they should tell you  
11 exactly where it's crossing your property. That was  
12 what Jerry's question was about the one house that  
13 appears is your home. You should know exactly where  
14 the route is on your property.

15 THE WITNESS: Do we have an exhibit  
16 that --

17 JUDGE HOBERG: We do. Exhibit E6 should  
18 show that. E6 should show exactly where the line  
19 goes on your property.

20 THE WITNESS: That's the proposed route.  
21 That's not the proposed south route?

22 JUDGE HOBERG: That's water under the  
23 bridge. This is the final hearing on this detailed  
24 route.

25 COMMISSIONER CLARK: That is the proposed

1 route.

2 THE WITNESS: I need some help here  
3 because I don't pay attention to these maps. Where  
4 does it show the proposed south route? What E6  
5 shows is the corridor at the wide end, but the maps  
6 we got, the maps that we received from Minnkota --  
7 and I don't have them with me. Maybe Minnkota has  
8 them -- is the proposed south route. That come back  
9 down over our property on which section?

10 COMMISSIONER CLARK: That purple line  
11 that's there is the route.

12 JUDGE HOBERG: Wait a second. We are  
13 getting kind of disjointed here.

14 Mr. Sagsveen, you were watching. It was  
15 the route showing on the red line; correct?

16 MR. SAGSVEEN: The map that's identified  
17 as E6 is the route that they're applying for in this  
18 permit. You may have had different discussions with  
19 them and Mollie can maybe address that regarding  
20 different proposals, but what you see on E6 is  
21 what's being applied for.

22 JUDGE HOBERG: Ms. Smith.

23 MS. SMITH: Yes. And what I've been told  
24 is that what you've signed as your easement is the  
25 route that is proposed on this map, if that is

1 helpful to you.

2 THE WITNESS: Okay. So I did not -- we  
3 did not sign off on this corridor being widened,  
4 though.

5 JUDGE HOBERG: You don't have to sign off  
6 on that. Again, the corridor, as Commissioner Clark  
7 has explained, is not the route. It's an area where  
8 the route can be in, has to be in that area, in  
9 fact, but what you signed off on your easement is  
10 the route.

11 THE WITNESS: But the widened corridor  
12 does affect us, is what I'm trying to say. It  
13 affects --

14 COMMISSIONER CRAMER: The only way it  
15 would affect you would be if they changed the route.

16 THE WITNESS: Exactly.

17 COMMISSIONER CRAMER: Which they couldn't  
18 do without your concurrence.

19 COMMISSIONER KALK: We wouldn't let that  
20 happen.

21 COMMISSIONER CRAMER: That's where the  
22 easement comes in. They don't get to go in this  
23 widened area and just put the line anywhere they  
24 want without consulting you. You signed an easement  
25 for a specific route.

1 THE WITNESS: I have no further questions.

2 JUDGE HOBERG: All right. Any further  
3 questions of Mr. Topp?

4 MS. SMITH: No, Your Honor.

5 JUDGE HOBERG: Thank you very much. I  
6 hope you --

7 COMMISSIONER CRAMER: I haven't had --

8 JUDGE HOBERG: I'm sorry. Commissioner  
9 Cramer.

10 EXAMINATION

11 BY COMMISSIONER CRAMER:

12 Q. A couple of things. I think I've got a  
13 clear understanding of where your land is.

14 I do want to make a couple statements,  
15 though. One is, I don't want you to be misled in  
16 any way. The discussion that you're referring to  
17 that I suspect will be in Exhibit R when it  
18 eventually comes out, will be a slight -- I'm  
19 sure -- I'm going to air what we heard in Grand  
20 Forks where you were not. May be a deviation  
21 somewhere around Jeff Topp's homestead or where  
22 those buildings are, may be to the north, may be to  
23 the south, I don't know what it is, but they're  
24 discussing specifically. The point, though, today  
25 is, that what you're hearing, I think, from all of

1 us is, that it will not leave his land or if it  
2 does, it opens up a whole new set of probably  
3 hearing or at least opportunities for other affected  
4 landowners.

5 Okay. So while this is the route we're  
6 talking about today, obviously, there's some  
7 negotiation going on that would maybe deviate  
8 slightly from that, but it will not go on somebody  
9 else's land. Okay?

10 The second thing I want to address is your  
11 comment about -- and I don't want to be  
12 argumentative, but your comment about it pays to  
13 know the first name of the Commissioners. I've  
14 never met Jeff Topp prior to being in Carrington  
15 before. Or if I have, I didn't know it. I don't  
16 know about my colleagues.

17 A. Excuse me, Mr. Cramer. That's an issue  
18 you ought to take up with Jeff then or excuse me --  
19 with the other landowner because that was something  
20 that was brought up to me, so that's between you and  
21 the neighboring landowner, not myself and you, sir.  
22 Thank you.

23 Q. You raised the issue, so I just want the  
24 record to be clear.

25 A. Okay. And I want the record to be clear

1 as well, Mr. Cramer.

2 COMMISSIONER CRAMER: Thank you.

3 JUDGE HOBERG: Thank you, Commissioner  
4 Cramer. Any further questions of Mr. Topp?

5 MS. SMITH: No, Your Honor.

6 JUDGE HOBERG: Thank you.

7 All right. Kevin Horneman, did you want  
8 to come up and talk? Am I pronouncing that right?

9 THE WITNESS: Yes.

10 JUDGE HOBERG: Did you hear the admonition  
11 I gave in regard to perjury?

12 THE WITNESS: I did.

13 JUDGE HOBERG: Being advised of the  
14 penalty for perjury, do you promise to tell the  
15 truth in this matter being heard? If so, answer I  
16 do.

17 THE WITNESS: I do.

18 JUDGE HOBERG: Thank you. Why don't you  
19 state your name for the record and where you're from  
20 and tell us what you'd like to tell us, please.

21 KEVIN HORNEMAN,

22 having been first duly sworn, was examined and  
23 testified as follows:

24 STATEMENT BY KEVIN HORNEMAN:

25 THE WITNESS: My name is Kevin Horneman.

1 I'm from Anamoose. And me and my wife, Nancy, own  
2 Section 13 in Sheridan County, in Boone Township and  
3 this is on the south side of Tenth Street, so the  
4 proposed route is on the other side of the street  
5 from our property.

6 And I have a couple concerns and questions  
7 about approval contingency type of thing for the  
8 Commission. And my thought is, is it possible that  
9 when this is approved, that it could be done that a  
10 second set of lines will be put in for wind towers  
11 or, you know, is there that type of thing is  
12 possible or is that probable?

13 JUDGE HOBERG: Is that -- Commissioner  
14 Clark.

15 COMMISSIONER CLARK: It's a fair question  
16 and I think I can answer it, if I understand the  
17 question that you're asking. Which is, once the  
18 corridor is approved, could there be other  
19 transmission lines that are run right down along it,  
20 basically it opens the door to --

21 THE WITNESS: Not so much that, but I was  
22 told originally when we talked to Kadrmas, Lee &  
23 Jackson, that you can have a set of poles that have  
24 two different set of lines on one set of poles.

25 COMMISSIONER CLARK: So double-circuited,

1 basically, where it allows for the opportunity of a  
2 second transmission line on the same structure?

3 THE WITNESS: Correct.

4 COMMISSIONER CLARK: I think that would  
5 probably be a question best answered by the company  
6 if that's technically feasible and if it's being  
7 constructed in such a way.

8 From a Commission standpoint, if it was  
9 exactly the same route, exactly the same corridor,  
10 there could be some streamlined procedures under  
11 which they could apply to do that. They would still  
12 need some sort of authority from the Commission, but  
13 whether technically this particular line can handle  
14 it or not, I think is best answered by the company.

15 JUDGE HOBERG: Ms. Smith, could we have  
16 that addressed on rebuttal?

17 MS. SMITH: Sure. We can either do it on  
18 the record or if it's something you want to talk  
19 about off the record, we can do that, too. So  
20 either way.

21 COMMISSIONER CRAMER: I can tell you we've  
22 had no testimony to that intent, and we often do, if  
23 that is the intent of the company.

24 THE WITNESS: I guess my testimony, like,  
25 for the record is, I would like to state that I

1 think since we're going through this process and,  
2 you know, this might be a benefit for the landowners  
3 in the Denhoff area, which might have potential for  
4 a wind farm, that, you know, maybe when this is  
5 approved, it's approved contingent upon having two  
6 sets of lines. And, you know, that's something I'd  
7 like you to consider as a Commission, let's not go  
8 through this twice. You know, we're going through  
9 this thing once. Once is enough. Let's get the  
10 second set of lines on there right from the very  
11 beginning.

12 JUDGE HOBERG: You mean conditioned on  
13 allowing for two sets of lines?

14 THE WITNESS: Correct.

15 COMMISSIONER CRAMER: If I might?

16 JUDGE HOBERG: Yes. Commissioner Cramer.

17 COMMISSIONER CRAMER: Well, that hasn't  
18 been testified to to this point. You raise a good  
19 point. One thing that was testified to in the  
20 corridor hearings was the opportunity for capacity  
21 on this line for wind projects along the route.

22 THE WITNESS: And in that regard, I mean,  
23 that's not as good as what I consider to be option  
24 A, but for option B, then let's say can it be  
25 approved that Minnkota will leave at least 25

1 percent capacity on this line for wind power and  
2 this line is approved under that?

3 COMMISSIONER CRAMER: Not by us.

4 JUDGE HOBERG: Well, that's not what  
5 they're asking for.

6 THE WITNESS: Right. Well, the fact that  
7 they say, you know, we might have room for half a  
8 windmill sometimes, you know, once a month is not  
9 really giving anything, so --

10 JUDGE HOBERG: You'd like to see that kind  
11 of condition; is that what you're testifying?

12 THE WITNESS: Correct. Yes.

13 JUDGE HOBERG: Anything further?

14 THE WITNESS: Further, I have a concern on  
15 the road on Tenth Street. I heard testimony about  
16 contractors taking care of the road. I know in the  
17 spring with farm machinery it can get a little bit  
18 muddy and to have cement trucks and steel trucks and  
19 some other on the road, I think that there might be  
20 the possibility that we're going to need some stone  
21 and rock and gravel and not just to blade the mud  
22 around and that -- you know, not leave ruts and  
23 wreck the road so bad that the farm machinery and  
24 farm trucks can't use the road. So I would like to  
25 see maybe a little bit more of a priority than just

1 we're going to notify and talk to the township or  
2 talk to the county. That sounds like that might not  
3 be enough to keep everyone happy, as far as I'm  
4 concerned. I think I would like to see a lot  
5 stronger wording in that, possibly they might not  
6 have access to the roads until after planting season  
7 or if they are going to use roads that are in  
8 marginal condition, they need to improve the road,  
9 not just maintain the road. So something along  
10 those lines.

11 JUDGE HOBERG: Okay.

12 THE WITNESS: And, finally, I'd like to  
13 applaud Minnkota for taking the Federal Government  
14 environmental and wildlife portion of this  
15 seriously. I do think that that means something to  
16 me and my family, so I don't want to make light of  
17 the, you know, wildlife aspects of this project.  
18 And that would be all.

19 JUDGE HOBERG: Thank you, Mr. Horneman.  
20 Just hold on a second, though, please.

21 Ms. Smith, any questions of Mr. Horneman?

22 MS. SMITH: I don't have any questions.

23 JUDGE HOBERG: Thank you. Mr. Sagsveen.

24 MR. SAGSVEEN: No questions.

25 JUDGE HOBERG: Thank you. Commissioner

1 Clark, please.

2 COMMISSIONER CLARK: Just maybe more a  
3 comment than a question, because it's a question I  
4 received over the break as well and would just offer  
5 it to other landowners.

6 With regard to upkeep of the roads,  
7 restoration of lands, sometimes we hear from  
8 landowners who are concerned after, you know, there  
9 could be soil compaction issues and all sorts of  
10 things when we've got equipment out there working.

11 The Commission's orders typically, and I'm  
12 sure in this case, would address issues like that.  
13 In addition, there are private negotiations which go  
14 on between townships and counties and so on, and so  
15 forth, with utility companies and, typically, the  
16 companies, and they have in this case, signed an  
17 affidavit where they agree to certain things in  
18 terms of construction practices and how they plan to  
19 maintain those roads and restore the land and so on,  
20 and so forth.

21 To the degree that you see problems out  
22 there as landowners or you've -- as part of the  
23 restoration process, it's not going as you think it  
24 should and you haven't been able to work it out with  
25 the utility company, we encourage landowners to

1 contact the Commission because we do have some  
2 followup authority in regard to the siting  
3 applications that we process.

4 And, in fact, we have been in the practice  
5 recently, and I would guess that if this is  
6 approved, we would do a similar thing with this  
7 particular line, where we will contract outside  
8 engineering firm help, outside consultants who work  
9 for the Commission and effectively are our boots on  
10 the ground so as construction takes place and in the  
11 aftermath of the construction, there's some  
12 assurance that the Commission's order is being  
13 adhered to. We have those types of resources. So I  
14 would just encourage folks, even should the project  
15 be approved, to continue to stay in contact with the  
16 Commission if you see concerns.

17 JUDGE HOBERG: Thank you, Commissioner  
18 Clark. Commissioner Cramer, please.

19 COMMISSIONER CRAMER: Nothing else. Thank  
20 you.

21 JUDGE HOBERG: Commissioner Kalk, please.

22 EXAMINATION

23 BY COMMISSIONER KALK:

24 Q. Just a thank you for your testimony. And  
25 the -- I'm sure my question about -- one of the

1 Minnkota witnesses about how they are going to  
2 coordinate with the local authorities and the roads.  
3 It is a huge issue. Maybe, also, if you talk to  
4 your County Commissioners.

5           And I think -- I'm trying to understand.  
6 You're trying to make sure that if this line is  
7 going to be built, there's some opportunity down the  
8 road for some wind development, is kind of the  
9 underlying point you are trying to bring out?

10           A. Yeah, I think it's a terrible waste of  
11 time and talent to construct, you know, a single  
12 line when you can construct a double line.

13           Q. And I don't disagree with that. One of  
14 the things that the Commission sees in other power  
15 line hearings, is that there will be a new line that  
16 will come into place, but if it parallels another  
17 line or they overlay another line, it's a lot easier  
18 to do the second siting. So that's one of the  
19 things that we try to go through the process, but  
20 when it comes to the next phase, it is a lot easier  
21 if you're going along an existing route. Thank you.

22           JUDGE HOBERG: Any further questions of  
23 Mr. Horneman?

24           MS. SMITH: No, Your Honor.

25           JUDGE HOBERG: Thank you.

1           Okay. Sheila Braun. Ms. Braun, did you  
2 hear the admonition I gave in regard to perjury?

3           THE WITNESS: Yes.

4           JUDGE HOBERG: Being advised of the  
5 penalty for perjury, do you promise to tell the  
6 truth in this matter being heard? If so, answer I  
7 do.

8           THE WITNESS: I do.

9           JUDGE HOBERG: Thank you. Would you state  
10 your name and tell us where you are from and what  
11 you'd like to tell us, please.

12                               SHEILA BRAUN,

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

15           STATEMENT BY SHEILA BRAUN:

16           THE WITNESS: My name is Sheila Braun. I  
17 live in the Menoken area, but the family farm is  
18 just right outside of Wilton. So I'm a little  
19 nervous here. My voice is a little shaky, so please  
20 bear with me. I've got a couple things that I'd  
21 like to read. And some articles and stuff I have  
22 looked up that I'd like to give to you people to  
23 look at.

24           I'm here on behalf and in support of my  
25 81-year-old mother. I'm asking you cease and desist

1 in the stress, grief and concern you are inflicting  
2 upon her. This is not something someone of this age  
3 should be concerned with. I'm here to speak out so  
4 you are not oblivious to the impact this is having  
5 on the health of all who are concerned about this  
6 atrocity. Yes, I said "atrocity," as this whole  
7 thing is a violent crime against all whose property  
8 you are planning on stealing and destroying.

9 My mom loves the prairie. Do you remember  
10 the old TV commercial "Where's the beef?" Well,  
11 it's beginning to look like, "Where's the prairie in  
12 North Dakota?" This proposed construction is not  
13 supported, nor wanted by a majority. No person  
14 shall be deprived of life, liberty or property  
15 without due process of law, nor shall private  
16 property be taken for public use without just  
17 compensation.

18 Much has happened to trivialize the use of  
19 a power reluctantly granted by our Founding Fathers.  
20 The use of eminent domain for acquiring private  
21 property with dubious justification is certainly  
22 active in this proposed project. The use of eminent  
23 domain to steal my mother's property and her future  
24 hopes, dreams and prayers for her land is criminal  
25 and is only being spurred by greed. How would any

1 of you feel with your mother being treated in this  
2 way? How would you feel?

3 She was told by a Minnkota representative  
4 that if she didn't sign his paperwork, she would  
5 have to get herself an attorney and not only pay her  
6 attorney, but Minnkota's attorney fees as well.  
7 This is threatening, bullying at its worst. Now  
8 that you are aware of what Minnkota is doing, what  
9 is going to be done about it? Is this how someone  
10 is treated who has faithfully paid taxes? I'm  
11 objecting to all your heartlessness and apathy.  
12 Wake up and help the people out.

13 I'm speaking to all who are listed as past  
14 or present representatives and all who are supposed  
15 to be representing the little guys here. I'm  
16 objecting to this proposed infringement on North  
17 Dakota property, health of all humans in these  
18 areas, and all the livestock, animals, and crops  
19 affected. Believe me, there will be lawsuits with  
20 the health effects these types of power lines are  
21 proven to have.

22 Pursue the Internet. The health effects  
23 are appalling. Point in case, from the British  
24 Medical Journal, June 2005, researchers found that  
25 children living within 650 feet of power lines had a

1 70 percent greater risk of leukemia. From  
2 epidemiology --

3 MS. SMITH: Objection. I don't have a  
4 source for these statements. I'm sorry. They are  
5 essentially taken out of context.

6 JUDGE HOBERG: Well, she's getting -- she  
7 hasn't offered any documents yet. She's giving  
8 testimony. Are you reading from what?

9 THE WITNESS: I'm just reading from  
10 something that --

11 JUDGE HOBERG: You prepared?

12 THE WITNESS: It was prepared by my  
13 sister.

14 JUDGE HOBERG: How many pages do you have  
15 to read?

16 THE WITNESS: It's -- it's pretty short.  
17 I mean, it's not that long.

18 JUDGE HOBERG: Looks like it's about four  
19 or five pages?

20 THE WITNESS: Well, there's --

21 JUDGE HOBERG: Can you summarize your  
22 comments and then perhaps offer the documents? I  
23 mean, I don't want to cut you off, but --

24 THE WITNESS: Yeah. I don't know. I  
25 guess I don't have to -- I don't know. I don't know

1 how I'm supposed to do this, so --

2 JUDGE HOBERG: Well, she's objecting that  
3 you're talking about --

4 THE WITNESS: I'm talking about the  
5 journals and stuff.

6 JUDGE HOBERG: You're talking about  
7 journals and information that is essentially  
8 hearsay, which is technically objectionable here,  
9 but there is some latitude in a hearing like this,  
10 so, you know, I'd certainly let you summarize your  
11 concerns about this.

12 THE WITNESS: Okay. Let's see here. Just  
13 give me a minute here and I'll try and -- is it all  
14 right just to say that there are serious health  
15 issues we were able to locate?

16 JUDGE HOBERG: Sure. As far as -- you  
17 know, if you're wanting to tell us what you believe.

18 THE WITNESS: Yes. I believe that from my  
19 findings. Does that work?

20 JUDGE HOBERG: Sure.

21 THE WITNESS: Okay. I believe from my  
22 findings there's such health issues out there as  
23 brain tumors, leukemia, birth defects, lymphoma,  
24 headaches, fatigue, anxiety, insomnia, prickling or  
25 burning skin rashes and muscle pain. I was also

1 able to find some articles where it affected the  
2 health of the cows, the cattle. There was  
3 actually -- I don't know where they actually -- this  
4 was -- I don't know. I'm still saying part of an  
5 article. Where they actually found a link to these  
6 power lines to cancer and the scientific -- the  
7 scientists didn't believe it and they went back and  
8 recreated and found that it was true. There is  
9 health issues with these power lines. And the  
10 health issues are with -- from my findings are with  
11 not only humans, but animals and crops and I guess  
12 that's -- that's what I've found and what she's  
13 found.

14 JUDGE HOBERG: So you're asking the  
15 Commission to not site this route at all?

16 THE WITNESS: Not to what?

17 JUDGE HOBERG: To not allow this route,  
18 this transmission line at all; is what you're  
19 asking, I assume.

20 THE WITNESS: Yes, I am.

21 JUDGE HOBERG: Okay.

22 THE WITNESS: Because it's not going to  
23 be -- only time will tell. I mean, from what I've  
24 found, the facts will come out and they will come  
25 out on their own. They've done tests. There are

1 farmers -- according to these news articles, out of  
2 Minnesota there are farmers --

3 MS. SMITH: I'm going to object again.  
4 I'm sorry.

5 JUDGE HOBERG: She's going to object.  
6 You're not testifying as an expert witness. An  
7 expert witness would be able to testify based on  
8 their education, training, et cetera, or based on  
9 articles that they wrote. But you're testifying as  
10 a layperson right now, so I'm willing to listen to  
11 your beliefs about this sort of thing.

12 THE WITNESS: Okay. Well, I believe it  
13 does affect the animals. And -- anyway, I could go  
14 on. This is my sister -- I could go on and on and  
15 on. There's lots of findings, myriads of findings,  
16 but you get the picture. What I'm now doing is I'm  
17 begging your mercy. Stop this now. Call a halt to  
18 this project and listen to the majority. Care about  
19 the negative impacts this will have on our skyline,  
20 our health, the health of our future generations,  
21 and the health of our animals, crops and property  
22 value. Stop this projected line. And it's  
23 respectfully submitted by Dr. Ladana Porter, in  
24 protest of the proposed electrical line.

25 JUDGE HOBERG: But you're testifying based

1 on what you believe also right now; correct?

2 THE WITNESS: Right. Right. So because  
3 she wasn't able to be here because she's on a farm,  
4 she asked me that I read it.

5 JUDGE HOBERG: Sure.

6 THE WITNESS: Okay. I guess my concerns  
7 are I did -- I was able to find a YouTube video of  
8 the Minnkota Power CEO that stated at the EPA  
9 hearing, I believe, that he couldn't justify the  
10 money that was being spent on power station and line  
11 and he couldn't -- he couldn't give a good answer to  
12 his own customers about the price increases that  
13 they were going to have to pay.

14 MS. SMITH: I'll object because this is  
15 also hearsay.

16 JUDGE HOBERG: Yeah. Yeah, it is. But  
17 you're talking about the Minnkota CEO?

18 THE WITNESS: Yep.

19 JUDGE HOBERG: Well, that might be  
20 considered a party, but why don't you stick to your  
21 beliefs, what you want us to be concerned about here  
22 today?

23 THE WITNESS: Okay. Okay. I guess I'm  
24 concerned that at the Washburn hearing it was said  
25 that over \$3 million was spent on the wildlife

1 study.

2 JUDGE HOBERG: \$3.8, I think it was, not  
3 the study, but dealing with the whooping crane  
4 issue.

5 THE WITNESS: Right. Right. And I  
6 haven't heard yet what has been spent on human  
7 effects. I mean, if this is going to have an issue  
8 with birds, you know, there's a human side to this.  
9 I guess -- I guess the big business didn't pay any  
10 property taxes for generations on this farmland and  
11 we, the little guy, did and will continue to pay the  
12 taxes as the State requires. We will continue to  
13 follow the laws of this land because that is just  
14 how Mom and Dad raised us, with values, that as they  
15 would put it, you can take to the bank.

16 With my eyes wide open you are allowing me  
17 to see just what big business and elected officials  
18 would do and how they are willing to walk all over  
19 their own state citizens. Here again, where's the  
20 money trail?

21 Harassing the seniors and fellow citizens  
22 of North Dakota by this big business company and the  
23 people they employ is so wrong, where do I start?  
24 They were asked by my mother not to come on the land  
25 and when she went out to survey her land, she found

1 survey stakes. They didn't inform her they were  
2 going on the land. She told them not to go on the  
3 land. And I don't know if this has happened to  
4 other people, but I think this is basically wrong.  
5 You should get permission and if you don't have  
6 permission, you don't go on.

7           There's big ads run all over the TV and  
8 radio and splashed all over the newspapers, both  
9 local and national, and schools are holding special  
10 classes about how kids should not bully others.  
11 What the State needs is ads put out there about how  
12 North Dakota's own elected officials and big  
13 businesses are allowing other states to come in and  
14 bully, push around and steal from seniors and their  
15 kids who are at this time fighting to hold onto  
16 their family farms; the family farms where they have  
17 fought drought and storms and farms they have sweat  
18 over, cried over, prayed over and died on.

19           What have these elected officials or big  
20 businesses given up for an unnecessary power line?  
21 How hard would you fight if this was happening to  
22 your folks? If someone was stealing your land and  
23 maybe water with two big words, eminent domain, I'm  
24 thinking they wouldn't have to fight at all for  
25 their little piece of land.

1           Again, where does the money trail go and  
2           how far up the food chain? The mistake these people  
3           have made is they're trying to take on big business  
4           one farm at a time. It should have been a 260-mile  
5           group of angry, informed voters coming at you. I  
6           wish I would have known about this three years ago.  
7           Today, I've yet to find a hero on this power line.  
8           Please, I ask of you, to be my hero. Don't kill the  
9           prairie, the people, the crops, the people's dreams,  
10          or the animals of North Dakota.

11           JUDGE HOBERG: Thank you, Ms. Braun.

12           Ms. Smith, any questions?

13           MS. SMITH: I don't have any questions.

14           JUDGE HOBERG: Thank you. Mr. Sagsveen,  
15          any questions?

16           MR. SAGSVEEN: No. No, Your Honor.

17           JUDGE HOBERG: Thank you. Commissioner  
18          Clark.

19           COMMISSIONER CLARK: No, but thank you for  
20          testifying.

21           JUDGE HOBERG: Thank you. Commissioner  
22          Cramer.

23           COMMISSIONER CRAMER: No, just thank you.

24           JUDGE HOBERG: Commissioner Kalk.  
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EXAMINATION

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BY COMMISSIONER KALK:

Q. Your grandmother's land you referred to, could you tell us where that's at?

A. It's just west of Wilton. It's my mother's land.

JUDGE HOBERG: West of where?

THE WITNESS: Wilton.

Q. (COMMISSIONER KALK CONTINUING) And is the power line crossing that land?

A. Yes, it is.

COMMISSIONER KALK: Thank you.

JUDGE HOBERG: Thank you, Ms. Braun.

THE WITNESS: Can I or not? (Indicating.)

JUDGE HOBERG: I believe that's probably hearsay that you're talking about.

THE WITNESS: Okay. Well, then just go on the Internet, you'll find them, too. Thank you.

JUDGE HOBERG: All right. Gary Weigum.

Mr. Weigum, did you hear the admonition I gave in regard to perjury?

THE WITNESS: Yes, I did.

JUDGE HOBERG: Being advised of the penalty for perjury, do you promise to tell the truth in this matter being heard? If so, answer I

1 do.

2 THE WITNESS: I do.

3 JUDGE HOBERG: Thank you. Why don't you  
4 state your name for the record and tell us where  
5 you're from, please, and what you'd like to tell the  
6 Commission.

7 GARY WEIGUM,

8 having been first duly sworn, was examined and  
9 testified as follows:

10 STATEMENT BY GARY WEIGUM:

11 THE WITNESS: Gary Weigum. I'm from New  
12 Rockford, North Dakota.

13 JUDGE HOBERG: Are you catching that back  
14 there? Maybe move a little closer. Thank you.

15 THE WITNESS: Okay. First off, I want to  
16 tell the Commissioners that this farmland in  
17 question here is Section 34, 148, 65. That is my  
18 land. Section 35, 148, 65 is my mother's, and  
19 Section 31, 148, 64 is also my mother's land.

20 My farm is just south of this land in  
21 question so the power line is within a quarter-mile,  
22 less than a quarter-mile from my farm. Now I would  
23 like to be -- understand why it can be moved for one  
24 individual that it's close to his farm, but it  
25 cannot be moved by mine?

1                   And the other question is, I want fair  
2                   compensation for this land. Minnkota has KLJ as  
3                   representatives to come out and talk to us. When I  
4                   said I wanted fair compensation, I would also like  
5                   devaluation of my land, which I believe is happening  
6                   and a loss of use. They will not agree to any of  
7                   this, but they are willing to move a power line for  
8                   an individual that will cost \$2 million, and KLJ's  
9                   representative said to me, "No, it's \$3 million."  
10                  And I said, "That is exactly my point. Why do they  
11                  have money for stuff like that?" And I'm not up  
12                  here just for myself. I'm up here for other  
13                  fighting farm families that feel they have loss of  
14                  use or they want fair compensation and the fact that  
15                  the land is being devalued.

16                  And I really doubt -- because this lease  
17                  is good for 99 years. I really doubt that Minnkota  
18                  itself would sign a contract for profits from this  
19                  company for 99 years and have fixed costs in it.  
20                  And this is what is happening to us. And I will  
21                  give you the figures. As of October 13th, 2011, I  
22                  was offered \$39,956 for the land that they are  
23                  crossing that is my own. In 99 years that works out  
24                  to \$403 a year. That is a joke. And that is  
25                  today's value of money.



1 going to cross my mother's land so it's not like I'm  
2 getting out of it.

3 COMMISSIONER CLARK: Okay. Thank you.  
4 That's all the questions I had.

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

7 COMMISSIONER CRAMER: Thank you.

8 EXAMINATION

9 BY COMMISSIONER CRAMER:

10 Q. Just so I'm clear now, so right now it's  
11 crossing 31, 34, 35 on yours and your mother's land?

12 A. Correct.

13 Q. And your objection is compensation, which,  
14 of course, is not --

15 A. That is part of it. Part of it is I would  
16 like it moved further north --

17 Q. I see.

18 A. -- away from my farm.

19 JUDGE HOBERG: You said -- was it a  
20 quarter-mile or a half-mile?

21 THE WITNESS: Less than a quarter-mile.

22 JUDGE HOBERG: Less than a quarter-mile.  
23 Okay.

24 Q. (COMMISSIONER CRAMER CONTINUING) Which  
25 dot on here is your farm? You're probably not

1 looking at the same thing I'm looking at. Where is  
2 your farmstead, your home?

3 A. It is in Section 3, right across the road.

4 Q. Okay. On the south side there?

5 A. Yeah. And then there's also a residence  
6 in Section 2.

7 Q. Yes. Okay.

8 COMMISSIONER CRAMER: All right. I have  
9 nothing further. Thank you.

10 JUDGE HOBERG: Thank you, Commissioner  
11 Cramer. Commissioner Kalk, please.

12 EXAMINATION

13 BY COMMISSIONER KALK:

14 Q. Thank you, Gary, for your testimony. I  
15 mean, if you have a proposal about you think that  
16 the company should move the line to a different spot  
17 on your land, I'm all ears.

18 Do you have a recommendation? And that's  
19 what happened up in Grand Forks and something  
20 between the company and that individual is working  
21 and we'll see what it looks like, but, I mean, if  
22 you have a specific recommendation that you'd like  
23 to see, if it's on your property, I'd like to hear  
24 it.

25 A. Well, if you have the maps there in front

1 of you, the line comes from the west. It turns and  
2 goes south down onto my land. I'm not understanding  
3 why they can't run the line straight west or  
4 straight east of where it's at instead of turning  
5 south.

6 Q. Sure. And then jog south at some later  
7 point?

8 A. If they have to.

9 Q. So that, I guess, is your recommendation,  
10 is just keep it along the original trajectory, if  
11 you will, through your land and then fix it down the  
12 road?

13 A. Yes. And I was told because there is a  
14 small village called Brantford, that they can't be  
15 close to that. Well, there's nobody that lives in  
16 that town. And the power line is a lot closer to my  
17 farm and there's more people living at my farm  
18 because there's two now, there will be four, and  
19 nobody lives in the Town of Brantford.

20 Q. So when you gave those recommendations to  
21 the company, that was their answer, they just  
22 figured it was better to go towards Brantford? Or  
23 they couldn't go towards Brantford?

24 A. They couldn't go towards Brantford,  
25 correct.

1 Q. Okay. Well, maybe we'll have the company  
2 address that later.

3 COMMISSIONER KALK: Thank you.

4 JUDGE HOBERG: Thank you, Commissioner  
5 Kalk. Any further questions of Mr. Weigum?

6 MS. SMITH: No, Your Honor.

7 JUDGE HOBERG: Thank you, Mr. Weigum.

8 THE WITNESS: Thank you.

9 JUDGE HOBERG: Ryan Weber.

10 Mr. Weber, did you hear the admonition I  
11 gave in regard to perjury?

12 THE WITNESS: Yes.

13 JUDGE HOBERG: Being advised of the  
14 penalty for perjury, do you promise to tell the  
15 truth in this matter being heard? If so, answer I  
16 do.

17 THE WITNESS: I do.

18 JUDGE HOBERG: Thank you. Why don't you  
19 state your name for the record and where you're from  
20 and what you'd like to tell us.

21 RYAN WEBER,

22 having been first duly sworn, was examined and  
23 testified as follows:

24 STATEMENT BY RYAN WEBER:

25 THE WITNESS: Ryan Weber. And I'm from

1 Oliver County.

2 And I guess I've got -- well, first of  
3 all, I'd like to explain what the 150-foot  
4 right-of-way truly consists of, if it's meant just  
5 for their maintenance route or construction route  
6 or, I guess --

7 JUDGE HOBERG: Oh, you want -- you don't  
8 have an understanding of that?

9 THE WITNESS: No, I'd like that explained.

10 JUDGE HOBERG: Commissioner Clark, do you  
11 want to?

12 COMMISSIONER CLARK: Could you repeat the  
13 question?

14 THE WITNESS: Well, I was wondering about  
15 their 150-foot right-of-way, what that's truly meant  
16 for.

17 COMMISSIONER CLARK: Oh, okay. The  
18 construction right-of-way?

19 THE WITNESS: (Nods.)

20 COMMISSIONER CLARK: Perhaps -- I mean, a  
21 company witness might best explain it, but it's  
22 basically the access for construction of the line  
23 itself, as I understand it. In rebuttal they may  
24 have --

25 MS. SMITH: We can have somebody address

1 that.

2 JUDGE HOBERG: You can have somebody  
3 address that. All right. Okay.

4 THE WITNESS: Because I guess my concern  
5 is that, I guess, in some of this law stuff here,  
6 there's a 150-foot right-of-way and one place it  
7 talks about the EMF, and I was wondering if that's  
8 just truly meant to keep anything away from their  
9 extra electric magnetic field and from anybody  
10 building close to it, or if it's -- and if it's  
11 meant that they should just follow that route in the  
12 next 99 years, the maintenance of their line.

13 I guess my reason for all that is we  
14 already have existing line, 345 Kw line, and it went  
15 down in an ice storm and they just had to repair  
16 some towers and there was quite a bit of damage  
17 done, and I've got pictures and everything. And  
18 they never followed their right-of-way. They just  
19 drove wherever they could to get to the line,  
20 easiest, fastest way. I mean, there was nobody that  
21 even contacted us before they went in that land and  
22 said they have to go in and do this and what's the  
23 best way to do this. They just went on. That's why  
24 I'm asking about the 150-foot right-of-way.

25 JUDGE HOBERG: Ms. Smith, you're going to

1 have somebody address that?

2 MS. SMITH: Yeah, we can have that  
3 addressed.

4 THE WITNESS: And on account of that  
5 150-foot right-of-way and the damage they do and  
6 stuff, I was wondering on that first corridor east  
7 of the Center Substation that they widened, the  
8 original stakes were in the north edge of the  
9 property right-of-way on Section 32 and close to the  
10 road and we figured, well, we didn't want the line,  
11 but if that's the case, I suppose on the road is  
12 about the best -- close to the road would be about  
13 the best as far as damages done to the land.

14 Well, then, later on we found out, in  
15 November of '11, that they decided they were going  
16 to push the line in 1,000 feet, or I think that's  
17 what they said, because of the view of the  
18 neighbor's, when she leaves her house in her  
19 driveway, they view the line. She didn't want to  
20 see that line. And according to the maps and our  
21 understanding is that she is slightly over 500 feet  
22 from the first line siting and now she'd be over  
23 1,500 feet away.

24 And I was just concerned about that. And  
25 I know I talked in Washburn, at the last meeting in

1 Washburn, and Mr. Phillips had stated that there's  
2 artifacts or something along there, so I guess I was  
3 wondering if there's artifacts, if there's no way  
4 possible that they still can put the line there just  
5 because of the artifacts? I guess nobody has ever  
6 really said that they can't go there because they  
7 find artifacts, it's just different laws and stuff  
8 they have to work around.

9           And then he talked about -- we've got a  
10 farmstead on the northeast corner along that road of  
11 Section 32 and there's -- he said that we had talked  
12 with our representative of Minnkota, that we had --  
13 in the future we might want to build a grain bin or  
14 something. Well, we had the first bin there in '09  
15 and the second one in the winter of '10, and the  
16 third one this summer in '11. And then there was no  
17 mention of an unoccupied home that was moved on that  
18 farmstead in the early 1990s that could possibly be  
19 occupied. It was put on a new basement and a new  
20 well was dug at the same time, but I never heard any  
21 testimony about that.

22           And there's an anhydrous storage tank that  
23 was put in there 10 years ago and, as I recall, I  
24 think he said that there was talk about anhydrous  
25 tank or something, so I just wanted to clarify that.

1 And I did talk to Mr. Phillips here today, and he  
2 said he was unaware of the home that was there.

3 But then getting back to where they pushed  
4 the line south now into the property over whatever  
5 that 1,000 feet and then they take and angle it  
6 back -- if you have that Exhibit E1, I think it is  
7 or something like that, you can see it good on  
8 there. But, I mean, they show the projected line  
9 and it shows -- it's going relatively straight and  
10 then to the northeast, you know, to Grand Forks, but  
11 on that one parcel or two parcels of land, one  
12 parcel is ours, all of a sudden it just jogs way  
13 south and it just looks kind of odd to me.

14 JUDGE HOBERG: She's putting up E1 right  
15 now, I believe.

16 THE WITNESS: And I was told that it  
17 jogged south like that just because of the one  
18 residence, but then when it gets to the eastern part  
19 of the land, it curves back to the northeast before  
20 it goes straight across the land and it gets -- and  
21 that makes it closer to that farmstead. And I was  
22 just wondering how they could come up with something  
23 like that, to push it in our land for the neighbor  
24 to get over 1,500 feet away and then when they get  
25 close to our farmstead, they angle it northeast to

1 become -- just, I mean, relatively close to it. I  
2 don't know exactly how far.

3 But I guess I was discussing it with the  
4 general manager here and we would like it out by the  
5 road and then, whatever, go around the farm that way  
6 to the south and around the farmstead. Or I guess  
7 the only option, I guess, would be to run it  
8 straight across out of our property so it keeps that  
9 maximum distance away from the farmstead, then angle  
10 back northeast. I don't see how you guys could have  
11 moved it in on our property to miss her and then get  
12 it close to our farmstead before you left our  
13 property. I mean, you're angling it northeast  
14 anyways, just as well soon seen it run straight  
15 across. Where it would have done the least amount  
16 of damage on the road and then around, because the  
17 terrain gets rougher further south and further south  
18 there was a -- INFINITY Wind had approached us about  
19 putting wind turbines on that land, two Of them, so  
20 now it's about right on the area that those wind  
21 turbines were proposed to go, as far as I can tell.  
22 So I guess that's another reason.

23 And then I was wondering about now that  
24 they have this expanded corridor and then they've  
25 got this proposed line route, will that vary in

1 there without anyone's consent? It sounded like  
2 before it wouldn't, but being it's in one  
3 landowner's, if you eminent domain it, can they then  
4 possibly say there's something, a big rock or a  
5 coulee or trees and they decide, well, we'll move it  
6 100 feet one way or the other without the  
7 landowner's consent? I guess that's my question.

8 All right. I don't know what you guys  
9 plan on, I mean, is that your guys' decision? Can  
10 you answer that?

11 JUDGE HOBERG: I think we have explained  
12 that once or twice already, but Commissioner Clark.

13 COMMISSIONER CLARK: I'll take another run  
14 at it. Eminent domain has been brought up in a  
15 couple testimonies, so maybe that's the best place  
16 to start.

17 This isn't an eminent domain proceeding.  
18 In order for a utility company to build a line, they  
19 basically need two things: One is, they have to  
20 have a site certificate, which they have to have a  
21 permit and the Commission authorizes that, but that  
22 doesn't give them the second thing that they need,  
23 which is access to the landowner's land. Any  
24 negotiations for easements or if an eminent domain  
25 proceeding takes place is a separate proceeding and

1 that's really an access proceeding. And that is  
2 something that under state law is totally outside of  
3 the Commission's authority. Only district courts  
4 can basically get in the business of access and  
5 access to private land. So if it gets to that point  
6 with any landowners along the route, eminent domain  
7 and access proceeding are not in front of the  
8 Commission and then whatever compensation is  
9 ultimately ordered to the landowner, they can't take  
10 it for free, that also is something that only a  
11 court can determine.

12 The route that's in front of us and,  
13 again, we're talking about corridors and routes.  
14 The only route that is in front of the Commission  
15 for approval is the one that's on those maps today.  
16 And so although a corridor may be wider than that,  
17 it doesn't mean that that can be just without -- you  
18 know, as I said before, it can't carte blanche. The  
19 utility, just because they have a corridor, doesn't  
20 have the authority to put it wherever they wish to  
21 in that route. It has to be a specific route that  
22 they're applying for.

23 THE WITNESS: Okay. And I guess they had  
24 talked -- earlier testimony I heard about we already  
25 have two existing transmission lines that came from

1 Minnkota, and he had talked about the emergency  
2 services and stuff that are in place if an emergency  
3 happens, and I guess we've had two lines on there  
4 and I have no idea what those emergency services  
5 are, so I was just wondering if they could explain  
6 that, maybe at the end or something.

7 JUDGE HOBERG: Ms. Smith.

8 MS. SMITH: Yeah, we'll address that.

9 THE WITNESS: And then I've got questions  
10 about the liability to the landowner. I guess we  
11 got two of them already and we don't know if a hired  
12 man hits the line or -- who is liable? I mean, if  
13 it is accidentally done.

14 JUDGE HOBERG: That's something you  
15 probably need to talk to the company about. That's  
16 not within the Commission's jurisdiction, liability.  
17 Again, probably something the courts would deal with  
18 if it wasn't settled between you and the company.

19 THE WITNESS: But I just thought it would  
20 be good for everyone here today to know a couple of  
21 these things.

22 And then I was also wondering who  
23 regulates and measures the EMS under these lines,  
24 because in some of these law documents here -- I  
25 assume they originated from Minnkota -- they said

1 that -- and that's another reason why I had that  
2 question about that 150-foot right-of-way. They  
3 said basically that 150-foot right-of-way, beyond  
4 that it should not be excessive, beyond the 150-foot  
5 right-of-way. That's why I was questioning what  
6 that 150-foot right-of-way truly is. And then I was  
7 asking you guys if you have any agencies or what  
8 that go around and regulate, measure the EMS under  
9 these lines. And, I guess, if these lines were to  
10 be upgraded, there's -- I read that there's new  
11 conductors that can be put on old transmission lines  
12 and double the capacity and at probably the same  
13 weight, and I was just wondering, we never really  
14 heard much about that, maybe that would have been  
15 something they could have done before putting -- but  
16 then that also probably doubles the amount of EMS  
17 the line gives off.

18 And I was wondering in the future, maybe  
19 they are using this wire, in the future they up the  
20 capacity of this transmission line, are these  
21 setbacks far enough from residences, things like  
22 that. And for wildlife.

23 And then I guess I want it known that this  
24 corridor here isn't -- that isn't final after today,  
25 that these suggestions that I brought forward would

1 be addressed. And then I guess -- oh, just a  
2 comment made about money spent on wildlife. It's  
3 probably a good thing. It just shows, well, maybe  
4 more should be spent on, you know, agencies  
5 regulating the harmful effects coming off these for  
6 humans. And wildlife agencies probably have  
7 something there, that maybe you guys should look at  
8 and apply it to maybe the human side of this.  
9 Because like us, as farmers and ranchers, we've  
10 been -- I mean, that's our daily job. This will be  
11 the third line across our land and our land is our  
12 job. We are continually going around these lines  
13 and under them and, I mean, it's just constantly.  
14 It would be just about like living under them. We  
15 spend, you know, a good part of the day underneath  
16 these lines, traveling back and forth, checking  
17 cows, fixing fence. I guess that's another one of  
18 my concerns.

19 And I just hope that you guys take more  
20 time and study these things and maybe check into the  
21 health aspects and maybe, as far as I know, the  
22 Health Department in North Dakota doesn't have any  
23 concern over -- I mean, power to check these lines.  
24 You guys are the only ones with any power to  
25 regulate these EMS and stuff like that, so I was --

1 just thought maybe that would be something good,  
2 because these first lines were put in 40 years ago.  
3 I mean, there's a lot of scientific evidence and  
4 technology since the first lines. This is a well-  
5 established company that's been in business for over  
6 40 years. I just thought, you know, there could be  
7 more money spent on worrying about the health part  
8 of it. I guess that's about all I have for now.

9 JUDGE HOBERG: Thank you, Mr. Weber.

10 Ms. Smith, do you have any questions?

11 MS. SMITH: No, Your Honor.

12 JUDGE HOBERG: Thank you. Mr. Sagsveen,  
13 any questions?

14 MR. SAGSVEEN: No, Your Honor.

15 JUDGE HOBERG: Thank you. Mr. Lien.

16 MR. LIEN: Just one.

17 EXAMINATION

18 BY MR. LIEN:

19 Q. I just want to -- I couldn't quite see the  
20 maps from here. Are we looking at Township 142,  
21 Range 82?

22 A. Yep.

23 Q. Okay. Now, I can see where you're at.  
24 Thank you.

25 JUDGE HOBERG: Thank you, Mr. Lien.

1 Commissioner Clark, please.

2 EXAMINATION

3 BY COMMISSIONER CLARK:

4 Q. The farmstead that you had mentioned, is  
5 that a -- your farmstead that you said -- that the  
6 line was brought closer to it because of the route  
7 deviation, could you describe for me exactly where  
8 that farmstead is? I'm afraid I'm not picking it up  
9 as a yellow dot on the map, which is usually where  
10 residences are located.

11 A. It's not depicted on the map as a yellow  
12 dot. It's right in the northeast corner of the  
13 section.

14 Q. Is it -- does anyone live there?

15 A. No, it's unoccupied.

16 Q. Okay. Is it --

17 JUDGE HOBERG: I believe your testimony  
18 was that it is occupiable, that it's unoccupied,  
19 now?

20 THE WITNESS: Yes.

21 Q. (COMMISSIONER CLARK CONTINUING) So that's  
22 the issue, it's occupiable, but it's not occupied?

23 A. It's got a fairly new basement on it,  
24 even.

25 Q. And, again, how close is it to that

1 farmstead as presently --

2 A. I can't determine that. You'll have to  
3 ask Minnkota. I was waiting for a stake or  
4 something there so I could, you know, know for sure,  
5 but there hasn't been so far.

6 Q. Okay. And the property again that's under  
7 your control is, what 32, is that right, Section 32?

8 A. 142, 82, yes.

9 Q. And is 33, is that an adjacent landowner?

10 A. Yes.

11 Q. Okay. It looks as though if it were  
12 brought right along 23rd, which is what I understand  
13 your preference was; is that correct?

14 A. Yes.

15 Q. That that would be almost right overhead  
16 of the farmstead, though; is that correct?

17 A. Yes. And we originally told them, well,  
18 either go around the north side or, I guess, being  
19 now it's this far along, if you can go around to the  
20 south of the yard then and then back to the road  
21 again.

22 Q. Sure. So what you're testifying to, would  
23 you prefer that the line at that -- you don't have a  
24 problem necessarily with it coming down south as  
25 long as it were to extend further on, say, into 33;

1 is that right? Or is it just the whole idea of  
2 coming down into 32 and deviating off of 23rd, the  
3 concern?

4 A. Yeah, that was my first concern and I  
5 guess the best scenario would be to keep it along  
6 the road and then jog around the farmstead.

7 Q. To the south?

8 A. Yes. But my second scenario would be to  
9 run it straight across where it is.

10 Q. Run it straight across where? I'm sorry.

11 A. Where the original is right now. The best  
12 would have been if it had stayed by the road because  
13 that would have been the least amount of damage to  
14 the property and the draws.

15 COMMISSIONER CLARK: Okay. Thank you.

16 JUDGE HOBERG: Thank you, Commissioner  
17 Clark. Commissioner Cramer, please.

18 EXAMINATION

19 BY MR. CRAMER:

20 Q. I'm going to just try a little harder to  
21 understand the proximity to the occupiable but  
22 currently unoccupied farmstead. As it is now, as  
23 you're looking at it, it seems to me it's a little  
24 further from that farmstead than it would be if it  
25 was going straight across as originally proposed; is

1 that accurate?

2 A. Yes.

3 Q. Just to the south rather than the north?

4 A. Yes.

5 Q. Okay. You had a lot of issues. I think I  
6 jotted them all down and another witness will rebut  
7 it or answer for you. One thing I would say,  
8 because there's been some talk of the double-  
9 circuiting issue, multiple lines in the existing  
10 corridor and all of those things, none of which are  
11 necessarily directly relevant to our jurisdiction  
12 here today, but one of the things we hear a lot  
13 about the value geographic diversity gives to  
14 reliability, and this line has some tremendous  
15 reliability opportunities, more in the northeastern  
16 part of the state, adding to sort of the robustness  
17 and the diversity of the grid, so that when you  
18 put -- because when you put a lot of lines in one  
19 place, of course, one singular event, a weather  
20 event especially, can take out a whole bunch of  
21 power; whereas, if you have this diversity of  
22 multiple lines, as ugly as they are, taking up more  
23 prairie, as Ms. Braun referenced earlier, it does  
24 have some real liability value.

25 So we consider it all for sure. But thank

1 you for your testimony. I hope we'll get all of  
2 your questions answered by a future witness.

3 A. I'd just like to add one thing. This new  
4 transmission line will be only about 1,500 feet from  
5 an existing transmission line by that jog.

6 Q. Sure.

7 A. So I think that's relatively close.  
8 You're talking about weather events.

9 Q. Yeah. A lot of transmission -- you have  
10 perhaps the fortunate and unfortunate of living very  
11 close to generation and so there obviously is a lot  
12 of transmission that comes out of that area.

13 JUDGE HOBERG: Thank you, Commissioner  
14 Cramer. Commissioner Kalk, please. Any further  
15 questions of Mr. Weber?

16 MS. SMITH: No, Your Honor.

17 JUDGE HOBERG: Thank you, Mr. Weber.

18 I believe that's all of the people I see  
19 listed. There's one more?

20 THE WITNESS: I wasn't going to try to  
21 speak, but I guess after the word "modifications"  
22 came in, I sure would like to.

23 JUDGE HOBERG: Sure. Come on up. Was  
24 there anybody else? Anybody else? Nobody else.  
25 Your name, sir?

1 THE WITNESS: Jay Topp.

2 JUDGE HOBERG: Jay Topp. Okay. You're  
3 listed there, too. You're also from New Rockford?

4 THE WITNESS: New Rockford.

5 JUDGE HOBERG: Did you hear the admonition  
6 I gave earlier in regard to perjury?

7 THE WITNESS: Yes, sir.

8 JUDGE HOBERG: Being advised of the  
9 penalty for perjury, do you promise to tell the  
10 truth in this matter being heard? If so, answer I  
11 do.

12 THE WITNESS: I do.

13 JUDGE HOBERG: Thank you. Please proceed.

14 JAY TOPP,

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

17 STATEMENT BY JAY TOPP:

18 THE WITNESS: Okay. Like I said, I was  
19 not going to speak until these words "minor  
20 modifications" came up. The last time that came up  
21 we had KLJ knocking at our doors because of the  
22 northern proposed route. I understand it's not  
23 coming that way. Can you guarantee me that this  
24 modification is not going to be moved over to 148,  
25 64, Sections 28 and 29?

1 JUDGE HOBERG: Well, as it was explained  
2 here, the route they are considering today is the  
3 route it's going to be.

4 THE WITNESS: That is on record then, it's  
5 going to stay there without --

6 JUDGE HOBERG: Commissioner Clark.

7 UNIDENTIFIED SPEAKER: It's a question for  
8 the company.

9 COMMISSIONER CLARK: It's the company's  
10 route they're proposing.

11 THE WITNESS: Like I say, we're  
12 apprehensive because the last time this happened  
13 after the meeting there was an end game played that  
14 KLJ was knocking at our doors.

15 JUDGE HOBERG: Ms. Smith, do you want to  
16 address that?

17 MS. SMITH: I will wait for the witness to  
18 address that in rebuttal.

19 JUDGE HOBERG: They're going to address  
20 that with another witness then.

21 THE WITNESS: Okay. So when this Exhibit  
22 R comes out, will we get a copy sent to us?

23 JUDGE HOBERG: It will be on-line on the  
24 Commission's Web site under this case number, which  
25 is PU-09670. That will be listed as one of the

1 entries on the docket.

2 THE WITNESS: Okay. And if for some  
3 reason, it would move farther than what is planned,  
4 there will be future meetings?

5 JUDGE HOBERG: Likely, yes, that would  
6 likely happen.

7 THE WITNESS: "Likely" means yes?

8 JUDGE HOBERG: Well, Commissioner Kalk and  
9 Commissioner Clark both expressed reservations about  
10 that. I guess the assurance was that it's not going  
11 to, but if it did, we certainly wanted to revisit  
12 that, as I understand it.

13 COMMISSIONER KALK: If it affects his  
14 property, I'm sure I would ask and my colleagues  
15 would have their choice.

16 THE WITNESS: Well, then I have one  
17 other -- a couple other questions. If they do these  
18 minor modifications, who pays? Does this individual  
19 pay for it then?

20 JUDGE HOBERG: What minor modifications  
21 are you talking about?

22 THE WITNESS: On this one individual.

23 JUDGE HOBERG: I suppose that's a  
24 negotiation between the company and that individual  
25 as to exactly what's going to happen on that

1 property. There was some testimony about who paid  
2 for that, but that's probably still up in the air.

3 THE WITNESS: Okay. I was just kind of  
4 curious on that.

5 JUDGE HOBERG: Is that all you have? Just  
6 hold on a second. There might be some questions.

7 Ms. Smith.

8 MS. SMITH: I have no questions. Thanks.

9 JUDGE HOBERG: Mr. Sagsveen.

10 MR. SAGSVEEN: I have no questions.

11 JUDGE HOBERG: Commissioner Clark.

12 COMMISSIONER CLARK: No.

13 JUDGE HOBERG: Thank you. Commissioner  
14 Cramer.

15 COMMISSIONER CRAMER: I have no questions,  
16 except to just reassure you one more time. If a  
17 route moves from one person's land to another  
18 person's land, that is a very big deal to us.

19 THE WITNESS: It was the last time they  
20 tried, too.

21 COMMISSIONER CRAMER: We didn't site a  
22 route previously.

23 THE WITNESS: KLJ -- I'm not getting  
24 adversarial.

25 COMMISSIONER CRAMER: No, I understand

1 that. But I think that's part of the confusion.  
2 The previous corridor hearing was not a route  
3 hearing. This today is a route hearing. This is  
4 where we micro site every pole. So I think that's  
5 where --

6 THE WITNESS: Wasn't the last meeting?

7 COMMISSIONER CRAMER: It was not. And I  
8 think that's what has created the confusion.

9 THE WITNESS: The animosity, too.

10 COMMISSIONER CRAMER: That was not -- that  
11 was not a route hearing. That was a corridor  
12 hearing. So when a route now, when we're talking  
13 the actual line, deviates off of a landowner's land  
14 onto another landowner's land, we take that --  
15 that's a big deal to us. We don't take that lightly  
16 at all. And, in all honesty, I suppose one could  
17 say, well, gee, you've all been warned, there have  
18 been all these notices, but if you look at a notice  
19 and it doesn't affect your land, why would you be  
20 concerned? If all of a sudden now it does affect  
21 your land, you become concerned. And we don't  
22 expect every person in North Dakota to pay attention  
23 to everything that doesn't affect them, just those  
24 things that do.

25 THE WITNESS: That's why I wasn't here at

1 the last meeting, but maybe I should have been.

2 COMMISSIONER CRAMER: You probably  
3 wouldn't have had anything to answer to at the last  
4 one and now you do and that's why you're here.  
5 That's why we're here, too. Just know that you have  
6 that assurance.

7 COMMISSIONER CLARK: I suspect part of the  
8 confusion may be over routes and corridors and that,  
9 generally speaking, in this application the corridor  
10 was a fairly narrow corridor. If you looked at it  
11 on a map, it almost looked one and the same as the  
12 route. The rationale for Minnkota having a narrow  
13 corridor, I think, was actually fairly sound, in  
14 that if you would have a -- State law would indicate  
15 that you could have up to a six-mile corridor.  
16 Siting a six-mile corridor through the state could  
17 have concerned a lot of landowners who had nothing  
18 to really be concerned about, but perhaps more  
19 importantly, the way State law reads today, if the  
20 Commission sites a very large corridor like a  
21 six-mile, 260-mile corridor, it can open up  
22 streamlined siting through that in perpetuity and  
23 landowners didn't have an interest in having that  
24 sort of --

25 THE WITNESS: Minor modifications, though,

1 can mean fairly big when it's dealing with a 260-  
2 mile line, though, too, can it not?

3 COMMISSIONER CLARK: Right. Which is why  
4 with a narrower corridor, generally speaking, it  
5 limits the range of options that the utility would  
6 have to deviate it much at all. But as both Kevin  
7 and Brian indicated, and I feel the same way, moving  
8 a route, a specific route from one landowner onto  
9 other landowners' land is a bigger deal. We would,  
10 I think, feel obligated to come back and open the  
11 record up, if that, indeed, happened.

12 THE WITNESS: So I'm under oath. Are you  
13 guys under oath?

14 COMMISSIONER CRAMER: I might also just  
15 use this opportunity to state this has been an  
16 interesting situation, to say the least, but let's  
17 not forget that the issue we're dealing with is in  
18 response to another landowner's rights as well.

19 THE WITNESS: But we were not originally  
20 planned on this route, like I say, I'm not being  
21 adversarial, but when you get a knock on the door  
22 and say we want to go across your land after  
23 everything was pretty well -- when 90 percent -- 80  
24 percent of people -- I'm under oath, so 75 percent  
25 for sure, when they're willing to do it, then all of

1 a sudden this other one is being planned, yeah, it  
2 gets --

3 COMMISSIONER CRAMER: But, remember, that  
4 is why we were here before and that is why we are  
5 here now, is to ensure that everybody's rights are  
6 adhered to.

7 THE WITNESS: And that's why I'm here  
8 today, too, sir.

9 JUDGE HOBERG: Just hold on.

10 COMMISSIONER CLARK: And to be fair, as I  
11 indicated before, expanding corridors is something  
12 we did in a number of spots along this line. It  
13 wasn't specific to here. Wherever we heard concerns  
14 about someone as it impacted their operations, we  
15 expanded the corridor some or approved an expanded  
16 corridor because we wanted to give other potential  
17 options that might be more viable an opportunity.  
18 So it certainly wasn't limited to this instance.  
19 There are other parts of the line where that  
20 happened. Mr. Weber testified to another one where  
21 that happened.

22 THE WITNESS: So when we take this one  
23 individual in, let's take a few of the people to the  
24 west of us that are affected, too, then. You know,  
25 if we consider this one, let's consider everybody

1 it's affecting real bad.

2 JUDGE HOBERG: Well, I think we are. I  
3 think the Commission is.

4 THE WITNESS: I'm just saying, think about  
5 that, too.

6 JUDGE HOBERG: Commissioner Kalk, did you  
7 have any questions of Mr. Topp?

8 COMMISSIONER KALK: Just thanks for coming  
9 out. This is a very, very confusing process, to say  
10 the least.

11 I think the big thing, though, is the  
12 company started out with three different routes from  
13 Center to Grand Forks; one along the top, one in the  
14 middle and one in the bottom, and they go out and  
15 talk to all the landowners and it gets very  
16 confusing. Where we're at today, though, there's  
17 finally a detailed route from Center to Grand Forks  
18 that every one of you should look at very closely  
19 and make sure that that's the route that's up there.  
20 That is the route that's going to be built on,  
21 unless we change it a little bit. So all the stuff  
22 you've heard before, make sure you look at these  
23 maps because this is the route that is in front of  
24 us today. Thank you.

25 JUDGE HOBERG: Thank you, Mr. Topp. All

1 right. I'll ask one more time, is there anyone else  
2 who wishes to present testimony to the Commission at  
3 this time? Sir?

4 And your name, sir?

5 THE WITNESS: Mark Hagemeister.

6 JUDGE HOBERG: Mark Hagemeister. Are you  
7 on -- must be here someplace.

8 THE WITNESS: No.

9 JUDGE HOBERG: You haven't signed this  
10 yet?

11 THE WITNESS: No, I haven't.

12 JUDGE HOBERG: Oh, okay. Would you be  
13 willing to do that when you're done testifying?

14 THE WITNESS: What am I signing?

15 JUDGE HOBERG: You're just signing --

16 COMMISSIONER CRAMER: That's a good  
17 question.

18 THE WITNESS: Don't you read everything  
19 before you sign it?

20 JUDGE HOBERG: Yes, you should. Actually,  
21 all it is, is an attendance sheet to indicate that  
22 you were here today.

23 THE WITNESS: Okay. I skipped the morning  
24 session. I heard it last year.

25 JUDGE HOBERG: Why don't you state your

1 full name for the record, please, and spell it for  
2 me, please.

3 THE WITNESS: Mark Hagemeister. That's  
4 M-a-r-k. Last name, Hagemeister,  
5 H-a-g-e-m-e-i-s-t-e-r.

6 JUDGE HOBERG: All right. And you're from  
7 where?

8 THE WITNESS: Fessenden.

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

11 STATEMENT BY MARK HAGEMEISTER:

12 THE WITNESS: Well, you said something  
13 about every pole is being cited today; did I hear  
14 that correct?

15 JUDGE HOBERG: Essentially.

16 COMMISSIONER KALK: Not the poles, but  
17 essentially the route the poles are going to go on.

18 THE WITNESS: Okay. As far as distances  
19 from roads and where at in the corridor, can that  
20 be -- is that going to be determined today or has  
21 been?

22 COMMISSIONER CRAMER: Not determined, but  
23 testified to.

24 THE WITNESS: And what -- I think the  
25 corridor is several miles wide where I live. What's

1 with that? Are we narrowing it down, or not? It's  
2 still that large expanded area?

3 COMMISSIONER KALK: I think that's the  
4 point. The best thing you can do is look at the  
5 maps that are up there and find your property and  
6 you should see a detailed route and that's where  
7 it's proposed today. All the other corridor stuff  
8 has been narrowed down to the final route.

9 THE WITNESS: Okay. Well, last summer the  
10 fellow was out and he said they were going to put  
11 it, oh, maybe 100 feet from the section line and we  
12 asked him to put it just off of the township  
13 right-of-way, the 33 feet, and he refused to. Why  
14 are they not putting these lines as close to the  
15 road as possible to minimize the impacts?

16 COMMISSIONER KALK: Can you perhaps show  
17 us -- tell us where your property is and then we  
18 could look at it?

19 JUDGE HOBERG: Yeah. Why don't you tell  
20 us the legal description?

21 THE WITNESS: Okay. My father owns the  
22 Northwest Quarter, Section 5, 147, 70. And the line  
23 will be going by my brother and I's land just across  
24 the road. We have -- let's see. It would be  
25 Southwest Quarter of Section 32, 148, 70.

1                   So the question is, when asking the  
2 gentleman why they would not put the poles closer to  
3 the road so that we can get our farm machinery next  
4 to them instead of having to go between the poles  
5 and the road, we just want them right by the road so  
6 we can go around them. He had no answer. He would  
7 not listen to it. Why is that?

8                   JUDGE HOBERG: Ms. Smith, is that  
9 something that you can address on rebuttal?

10                  MS. SMITH: Yeah, if we're being asked to.

11                  JUDGE HOBERG: They're going to be calling  
12 another witness to talk about several things on  
13 rebuttal.

14                  THE WITNESS: That will be answered yet  
15 today?

16                  JUDGE HOBERG: That will be after the  
17 public testimony is done.

18                  THE WITNESS: Okay. The next thing is I  
19 see there's a regeneration site No. 2, something  
20 with fiberoptics. What's going on there? I think  
21 the line is going over that property. It's not  
22 ours, but it's right adjacent to it. It would be in  
23 the Northwest Quarter of Section 5, 147, 70.

24                  JUDGE HOBERG: Ms. Smith.

25                  MS. SMITH: We'll just have a witness

1 address those questions. I don't have an answer.

2 JUDGE HOBERG: Okay.

3 THE WITNESS: So there's no map with every  
4 pole. Okay.

5 COMMISSIONER CLARK: In the exhibits there  
6 actually is. I mean, there's not --

7 THE WITNESS: Do we get to see that?

8 COMMISSIONER CLARK: There's not one blown  
9 up there, but in the documents that the Commission  
10 has, there's actually what they call "plan and  
11 profile drawings," which have the specific --

12 THE WITNESS: Do landowners get to see  
13 this?

14 MS. SMITH: There's a set in the back, as  
15 well.

16 JUDGE HOBERG: There's a set of exhibits  
17 in the back of the room that shows all of the  
18 exhibits.

19 THE WITNESS: It shows every pole?

20 COMMISSIONER CLARK: It shows the height  
21 of every pole.

22 THE WITNESS: Okay. I'll have to look for  
23 that. Okay. The next question is, what about the  
24 trees? Where they're proposing to come through,  
25 there's a large amount of trees on our land and the

1 neighbor's land. What -- I want a few specifics  
2 about how that is going to be handled.

3 JUDGE HOBERG: A witness earlier this  
4 morning testified about that. You missed that, I  
5 guess. You said you weren't here in the morning;  
6 correct?

7 THE WITNESS: I was here last year and  
8 heard it, too. No, I didn't hear it. What did he  
9 say?

10 JUDGE HOBERG: Well, I don't know if I can  
11 regurgitate his whole testimony.

12 THE WITNESS: Because, you know, your  
13 version of cleanup and mine might be a little  
14 different.

15 JUDGE HOBERG: Yes, that's true. Is that  
16 something you can maybe touch on again in rebuttal,  
17 Ms. Smith?

18 MS. SMITH: I'm sure we can.

19 THE WITNESS: What about replacement of  
20 the trees? I'm told two trees for one, but --

21 JUDGE HOBERG: That, again, was covered  
22 this morning. There is a tree and shrub replacement  
23 schedule that was Exhibit, what, N, I believe?

24 MS. SMITH: Well, that's a good question.

25 COMMISSIONER CRAMER: It's also an

1 attachment to the order.

2 THE WITNESS: Maybe they could provide  
3 that for me and I could look at it.

4 JUDGE HOBERG: That should be in the back  
5 there, too, actually.

6 COMMISSIONER CLARK: Also available  
7 on-line on the Commission Web site.

8 JUDGE HOBERG: And on-line, yeah.

9 THE WITNESS: What kind of recourse is  
10 there if they don't follow through on that? Is the  
11 Public Service Commission going to take care of it  
12 or do we each have to get our own lawyers? You  
13 know, are you guys with us or not on backing it up?

14 JUDGE HOBERG: Commissioner Cramer.

15 COMMISSIONER CRAMER: Here's what I would  
16 say about especially let's say tree mitigation,  
17 tree, shrub mitigation or cleanup, things like that,  
18 those are all conditions in the order. That means  
19 that that jurisdiction lies with us, as well. Now,  
20 are we going to send an inspector out every day to  
21 make sure that the place is cleaned up? No, we're  
22 not. But if a landowner contacts us and says that  
23 topsoil somehow was not separated and re-spread  
24 properly or that, you know, they planted two-for-one  
25 trees, but three out of -- three are dying for every

1 one that lives, things like that that are conditions  
2 of the order, we will certainly follow up on that.

3 We would -- in a case like this, in fact,  
4 again, now we have not discussed this, the next  
5 process will be for us to have a notice made where  
6 we discuss it. I think Commissioner Clark might  
7 have alluded to it earlier. With large projects  
8 like this, it is not uncommon for us to hire a third  
9 party, engineering firm, environmental firm,  
10 something like that, to be our eyes and ears, to be  
11 a third-party inspector, construction inspector, as  
12 well as there is a post-construction inspection that  
13 is also done by the Commission or some agent of the  
14 Commission to ensure that the order is being  
15 complied with.

16 But just as the reason we're here is  
17 because you know more about your land than anybody,  
18 you are also the best force, if you will, to follow  
19 up and make us aware of any injustices that you  
20 might see. So, yes, in many cases the jurisdiction  
21 lies with us, but the eyes and ears are generally  
22 the people closest to it.

23 THE WITNESS: That's fine, but when  
24 something has to be done, how are the individual  
25 landowners going to do anything? Do we have the

1 Public Service Commission behind us or --

2 COMMISSIONER CLARK: Sure. The Commission  
3 always has authority to compel that its orders are  
4 followed for any company that's under its  
5 jurisdiction. So if there's -- we've had cases like  
6 this come up with pipelines that are constructed  
7 where there can be soil compaction or tree and shrub  
8 mitigation issues or anything like that and the  
9 Commission has the ability to enforce its orders.

10 THE WITNESS: Okay. Do you have the  
11 ability to mandate that they follow the quarter  
12 section lines or to put these poles next to the  
13 roads so that -- to minimize the impact?

14 COMMISSIONER CLARK: Well, the Commission  
15 has the authority to site a route, which has to take  
16 into consideration all of the rules. Amongst them  
17 are impact on the environment and things like that,  
18 so it becomes a weight of the evidence issue, but  
19 the Commission has the authority to site a route.

20 THE WITNESS: So you're saying that you  
21 could deny the route if they don't put the  
22 poles where the landowners are requesting --

23 COMMISSIONER CLARK: If we didn't feel  
24 that they were meeting -- if we didn't feel that  
25 they were meeting the standards that are set out in

1 the route, then we could deny the route. We can't  
2 just for no reason whatsoever deny a route.

3 THE WITNESS: So the idea of putting the  
4 poles next to the road or on the quarter-mile line  
5 is a great idea to everybody I talked to. It's time  
6 for somebody to step up and mandate that Minnkota  
7 does that and it appears that you three individuals  
8 are the ones with the power.

9 COMMISSIONER CLARK: If we felt that there  
10 was -- certainly. If we felt that the record showed  
11 that by the greater weight of the evidence it was  
12 far preferable for impact on human operations, on  
13 the environment, on wildlife, all the things we have  
14 to take into consideration, that by putting it out  
15 in the field as opposed to where you're proposing  
16 that it go, that it minimizes impact, that could be  
17 something that we would order, at least deny the  
18 route as the company.

19 THE WITNESS: Have you surveyed the  
20 affected landowners to determine that?

21 COMMISSIONER CLARK: Well, this is --  
22 these hearings are the opportunity to survey. This  
23 is the only thing we can base it on.

24 THE WITNESS: Maybe you should just have a  
25 show of hands of people. I mean, how else are you

1 going to survey? Has it been done?

2 JUDGE HOBERG: That's why we take public  
3 testimony.

4 THE WITNESS: Okay. So you're saying you  
5 haven't surveyed the people to determine where they  
6 would like the poles?

7 JUDGE HOBERG: No. The Commission has  
8 given notice and the applicant has provided the  
9 corridor and the route, proposed route, and that's  
10 why the Commission takes public testimony on that,  
11 to hear the landowner or the public concerns.

12 THE WITNESS: Well, what do you guys  
13 think?

14 JUDGE HOBERG: They haven't made their  
15 determination yet.

16 COMMISSIONER KALK: If I could just throw  
17 one thought out, on a previous power line hearing we  
18 did, I asked the question of the company, just keep  
19 it simple, just run it right down the road. Simple  
20 guy, makes sense. All of a sudden you start running  
21 it right down the road and it's closer than 500 feet  
22 to somebody's house and there's a wetland there and  
23 somebody's business there, so it really becomes  
24 challenging to find that route and that becomes why  
25 we're here today. I wish it was so simple, just do

1 it on the highway like the old days, but there's so  
2 many variables.

3 THE WITNESS: I understand what you're  
4 saying, but we're talking about moving it from --  
5 you know, if you assume the township right-of-way,  
6 the 33 feet is being used, so you've got the edge of  
7 your field is 33 feet from your property line. Then  
8 they want to put the pole another 70 feet out in the  
9 field. Why not move it the 70 feet back toward the  
10 road and be done with it? I mean, we're not talking  
11 about moving it so it's closer or further from  
12 people's home or anything. We're talking about  
13 logistics and, you know, we are the ones stuck with  
14 it for 99 years. Yeah, 99.

15 COMMISSIONER CRAMER: That will be a very  
16 specific question for a rebuttal witness. I suspect  
17 they'll have a specific answer as to why the 70 in  
18 versus right on or maybe they will say we've changed  
19 our mind. We want to go back to the drawing board.  
20 I don't know what they're going to say. At the end  
21 of the day, what we'll make our decision on is based  
22 on all the evidence that they presented and that you  
23 presented.

24 THE WITNESS: Yeah, but the issue does  
25 become what the landowners and the Public Service

1 Commission wants. It doesn't really matter what  
2 they say. You guys have the authority to do this.  
3 Why are you not using that? I mean --

4 COMMISSIONER CRAMER: It's not quite like  
5 that. It's their case that they make. The burden  
6 of proof is on the company by the -- to provide to  
7 us their case. We listen to their testimony, all of  
8 their evidence, then we come and listen to yours.  
9 At the end of it, our decision has to be based on  
10 the preponderance of the evidence in the record, so  
11 it's not like we take a poll and say, you know, how  
12 many favor, how many favor this route, how many  
13 favor that route.

14 THE WITNESS: Well, I'll just go on record  
15 as saying the poles out in the middle of our  
16 agricultural field is a big burden.

17 COMMISSIONER CRAMER: No doubt.

18 THE WITNESS: No doubt. And it doesn't  
19 appear like Minnkota is at all concerned about that.  
20 Every time they send a newsletter out, every time  
21 they send an individual out, they say they want to  
22 work with the landowners, but I've never once seen  
23 an example of them working with the owners, not  
24 once.

25 COMMISSIONER CRAMER: Well, when we get

1 the rebuttal witness up, we're going to ask very  
2 specifically about your land and the route in your  
3 area.

4 THE WITNESS: Okay. Next question is, how  
5 about distance from grain bins? The proposed route,  
6 my brother and I have a large grain bin structure  
7 that is right adjacent to the route. The route is  
8 on the neighbor's land. Our bins are just north  
9 of -- oh, let's go 147, 70, Section 5, Northwest  
10 Quarter, is where the proposed route is and we have  
11 grain bins right to the north of it.

12 JUDGE HOBERG: How close?

13 THE WITNESS: Well, the bins are -- the  
14 leg and stuff would be 200 feet from the road,  
15 maybe, so if they put the line -- I mean, if they  
16 put the line where they want to put it, it would be  
17 less than 300 feet from our bins, about, you know,  
18 that's including the 70 and the 30, the 100 feet  
19 from the property line. So 200 feet from the  
20 property line, I mean, what kind of restrictions are  
21 on that? I mean, that's a facility we're at a  
22 significant amount of time. It could very well be  
23 considered a farmstead.

24 JUDGE HOBERG: But there's no farmstead  
25 there, though, it's just the bins.

1                   THE WITNESS: Well, I don't know. What do  
2 you call a building with power lines, power coming  
3 into it? You're there handling grain. I mean,  
4 there's a building there. It's -- do you want it  
5 200 feet from where you spend literally months' time  
6 potentially?

7                   JUDGE HOBERG: So that's a concern of  
8 yours?

9                   THE WITNESS: Well, absolutely. I mean,  
10 if that power line were to go down, it could almost  
11 hit our structures potentially. What is the setback  
12 on stuff like that?

13                  JUDGE HOBERG: I don't believe there is a  
14 setback.

15                  THE WITNESS: Well, maybe they can just  
16 attach it to our grain bins then. That would save a  
17 million dollars for that pole. I mean, you've got  
18 to have a setback, don't you?

19                  JUDGE HOBERG: Is that something you can  
20 address, Ms. Smith?

21                  MS. SMITH: Well, as you said, that's not  
22 a setback so I can't really address that.

23                  JUDGE HOBERG: Yeah. Yeah.

24                  THE WITNESS: So you're saying there's no  
25 setback?

1 MS. SMITH: I'm saying, yeah, there's not  
2 a setback in the rules. And I don't want to get  
3 into a discussion back and forth about this.

4 THE WITNESS: Well, I don't either, but  
5 it's coming extremely close. I mean, I don't know  
6 what you guys want to call a farmstead. I mean,  
7 farmstead is where you do farmwork and that's what  
8 we do there, so --

9 JUDGE HOBERG: Well, you're on record as  
10 stating that as a concern of yours and I think we'll  
11 have to leave it at that for now.

12 THE WITNESS: We'll have somebody answer  
13 that later, then, the setback?

14 JUDGE HOBERG: I don't think Ms. Smith  
15 intends to address it. This isn't necessarily a  
16 question-and-answer period, Mr., is it Hagemeister?

17 THE WITNESS: Well, I guess if you would  
18 answer a lot of the questions, I wouldn't be up  
19 here. You know, we've been dealing with this for  
20 two years. If the answers would come forth, I  
21 wouldn't be here asking them. You know, I didn't  
22 drive down to Carrington to ask questions I knew the  
23 answer to.

24 JUDGE HOBERG: Right. And there isn't  
25 necessarily an answer for every question that's

1 raised. But we're certainly interested in hearing  
2 your concerns.

3 THE WITNESS: Okay. And then the issue of  
4 annual payments. I know it's been addressed in the  
5 newsletter. The only conclusion I could come to  
6 that Minnkota states that they can't give annual  
7 payments is that they're just basically too  
8 embarrassed to charge the people receiving the power  
9 what it actually costs to transmit it to Grand Forks  
10 and the surrounding area. They're asking landowners  
11 from many, many miles away to subsidize their power.  
12 That's the only conclusion I could draw from the  
13 rationale of not giving annual payments. Am I wrong  
14 on that?

15 JUDGE HOBERG: That's a possible  
16 conclusion, I guess.

17 THE WITNESS: Well, gas was \$3.60 a gallon  
18 to drive to Carrington today. I didn't ask for  
19 somebody to subsidize that for me to drive down  
20 here. I don't think landowners should be forced to  
21 subsidize somebody else's power for 99 years.  
22 That's enough. You guys will answer those questions  
23 then; right?

24 JUDGE HOBERG: Well, I'm not going to  
25 guarantee that all of your questions are going to

1 get answered, Mr. Hagemeister, but, we certainly  
2 were -- like I said, the Commission certainly is  
3 willing to listen to your concerns.

4 THE WITNESS: That's why I had to come.  
5 They haven't answered them so far.

6 JUDGE HOBERG: Well, there's some that  
7 were answered.

8 THE WITNESS: No, I'm talking previous to  
9 today.

10 JUDGE HOBERG: Okay. Nothing further  
11 then?

12 THE WITNESS: That should cover it for  
13 right now.

14 JUDGE HOBERG: Ms. Smith, do you have any  
15 questions?

16 MS. SMITH: I just have one or two.

17 EXAMINATION

18 BY MS. SMITH:

19 Q. You were talking about the grain bins.  
20 Did you say those were in Section 32?

21 A. I believe it's 32. They're right north of  
22 Section 5. They're in the next township to the  
23 north.

24 Q. Okay. So they are across 12th Street from  
25 the proposed route?

1           A.     That's correct, right north of 12th  
2 Street.

3           Q.     And if the route were moved closer to 12th  
4 Street, then they would be closer -- the route would  
5 actually be closer to your bins; is that right?

6           A.     I guess they would be.

7           Q.     Okay. I'm just trying to make sure I  
8 understand that.

9           MS. SMITH: I don't have any other  
10 questions.

11           JUDGE HOBERG: Thank you, Ms. Smith.

12           THE WITNESS: I just -- but that's the  
13 neighbor's land. That's not my decision if they  
14 were moved closer, but as far as closer to the road  
15 is easier to farm next to. That's what we're asking  
16 for.

17           Q.     (MS. SMITH CONTINUING) So I guess that  
18 does make me raise another question. You said  
19 that's the neighbor's land. So 5 is the neighbor's  
20 land?

21           A.     Northwest Quarter is. Northeast Quarter  
22 is my father's.

23           Q.     Okay. Northeast Quarter is your father's.  
24 Okay. And the route is actually not on your land;  
25 is that right?

1           A.    Not right there. My brother and I own the  
2 quarter to the north.

3           Q.    Okay.

4           A.    The Northwest Quarter of Section 5. We  
5 own the Southwest Quarter of 32.

6           Q.    Okay. So it's on your father's land, but  
7 not on your land?

8           A.    The bins? The bins are on our land.

9           Q.    No, the route.

10          A.    The route is, but I'm concerned about our  
11 bins. I mean, the route goes right beside the bins.

12          Q.    Okay. Yep.

13          A.    Within a couple hundred feet.

14                MS. SMITH: Okay. Thanks.

15                JUDGE HOBERG: Thank you, Ms. Smith.

16                Mr. Sagsveen, please.

17                MR. SAGSVEEN: I don't have any questions,  
18 Your Honor.

19                JUDGE HOBERG: Thank you. Mr. Lien.

20                MR. LIEN: No questions, Your Honor.

21                JUDGE HOBERG: Commissioner Clark.

22                COMMISSIONER CLARK: No, thank you.

23                JUDGE HOBERG: Commissioner Cramer.

24

25

EXAMINATION

1

2

BY COMMISSIONER CRAMER:

3

4

5

Q. I want to understand the bins a little bit better. So the bins are across the road from the regeneration station?

6

7

A. No. No. They would be about a quarter-mile east of the regeneration station.

8

Q. East. Okay. And then north?

9

A. And then north.

10

11

12

Q. Okay. So moving the line closer to the road as you were proposing would move them closer to your bins?

13

14

15

16

A. Well, you don't have to move them closer on the neighbor's land. I can't speak for that, but once you get further east, it's my father's land and, yes, we would like the poles next to the road.

17

18

19

Q. Okay. I just want to be real clear. You want them further from your bins on your neighbor's land, but closer to the road on your land?

20

A. Sure. Why not?

21

22

Q. Okay. I just want to be clear. Thank you.

23

24

25

A. Well, and my statement about close to the road is a general statement for the entire 300-mile line and going down quarter-mile lines applies to

1 that.

2 Q. I do understand that.

3 A. Okay. Yes, it seems -- they shouldn't go  
4 there. The line jogs further west. It should have  
5 stayed straight and then it would go a couple miles  
6 north of where we're talking. I have no idea why  
7 they jogged south. And then we'd be in areas that  
8 wouldn't be influenced like this.

9 COMMISSIONER CRAMER: Thank you.

10 JUDGE HOBERG: Thank you, Commissioner  
11 Cramer. Commission Kalk, please.

12 COMMISSIONER KALK: Not so much a  
13 question. Just a few thoughts for you and all the  
14 group. What we're trying to do here today is get as  
15 much input from everybody as we can. The company  
16 makes their pitch.

17 And as to your point about answers to the  
18 questions, when this case is all said and done, you  
19 should be able to come to the three of us, any one  
20 of us, and say, why did you do whatever you did for  
21 the placement of the poles or whatever, because when  
22 we get all this information collected, we go back to  
23 a work session and the three of us sit there and we  
24 agree on a lot, but we don't agree on everything.  
25 So it may get down to the three of us saying, should

1 it go here, should it go there, and two of us will  
2 weigh in and it ends up being built that way,  
3 perhaps.

4 And that's why this process takes a while.  
5 But when it's all said and done, any one of you  
6 should be able to come to any one of us or the  
7 company and say, okay, why did you do something?  
8 And we just finished a rate case with Xcel Energy  
9 yesterday and nobody likes the cost of electricity  
10 to go up. We get a lot of questions and we can tell  
11 them why we did something. And that's why it gets  
12 frustrating, I know, but when this process is all  
13 said and done, you should be able to come to any one  
14 of the three of us and ask why we did something and  
15 we'll be able to give you the answer.

16 THE WITNESS: Hopefully, because Minnkota  
17 hasn't given answers so far, so I guess it's down to  
18 you three looking out for the entire area, because  
19 Minnkota sure isn't.

20 JUDGE HOBERG: All right. Thank you,  
21 Mr. Hagemeister.

22 THE WITNESS: Thank you.

23 JUDGE HOBERG: Can I get you to sign this?

24 THE WITNESS: (Complies.)

25 JUDGE HOBERG: Anyone else who wishes to

1 give testimony today? I guess I should speak into  
2 my mic. We're going to take a short recess here,  
3 about five minutes; five, ten minutes -- 10 minutes,  
4 I guess, and then the applicant, Minnkota, is going  
5 to come back on with a rebuttal witness to give some  
6 additional testimony to try and answer at least some  
7 of these questions. So ten minutes.

8 (Recess was taken.)

9 JUDGE HOBERG: Okay. Let's go back on the  
10 record. As I indicated, we're done with the public  
11 testimony now, and I want to thank you all for that.  
12 The Commission certainly appreciates you taking your  
13 time and making the effort to come up here and give  
14 them some information about this project.

15 Now we're going to move into what's called  
16 the rebuttal testimony, just an opportunity for the  
17 applicant to respond to at least some of the  
18 questions and give some further information about  
19 what they perceive would be a response to some of  
20 the issues raised here.

21 So, Ms. Smith, who are you going to call,  
22 please?

23 MS. SMITH: Mike Hennes.

24 JUDGE HOBERG: Mr. Hennes. And, of  
25 course, you're still considered to be under oath

1 from this morning, Mr. Hennes, so thank you.

2 Ms. Smith, please.

3 MICHAEL HENNES,

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

6 DIRECT EXAMINATION

7 BY MS. SMITH:

8 Q. I think you probably heard one of the  
9 questions that was raised about double-circuiting  
10 and capacity. I guess those are two different  
11 questions, but I wondered if you could address those  
12 two issues for us?

13 A. All right. As part of a transmission  
14 provider that Minnkota Power Cooperative is  
15 considered, you know, from the National Electric  
16 Reliability Corporation, we have an obligation to do  
17 planning with a region. We have to plan with our --  
18 with our neighboring utilities, and for new projects  
19 we also have to open up that planning process to  
20 potential generation developers to make sure that  
21 we're including their future plans into our  
22 considerations.

23 And this project spent a considerable  
24 amount of time inviting and working with the major  
25 wind developers in North Dakota. And we started out

1 with a proposal for a double-circuit circuit poles  
2 that would support adding the second circuit at a  
3 future date, but the Rural Utility Service  
4 recognizes that for Minnkota as a cooperative,  
5 they'll only fund what Minnkota needs to support its  
6 particular load. So the project to have double  
7 circuits would have required participation from  
8 those generation providers. We had several  
9 discussions. We had planning issues. We had  
10 studies done and the generation utilities declined  
11 to make the investment to go ahead and invest in  
12 double-circuit structures at this time.

13 So we did that before we started our  
14 environmental process and we did it before we  
15 started our corridor and route process. So this  
16 circuit will only support the one circuit.

17 And to accommodate additional capacity, we  
18 are using the new technology. This line, the  
19 project made an additional investment in a conductor  
20 type that's called trapezoidal wire and that  
21 trapezoidal wire has lower losses so we get a  
22 benefit of losing less energy, you know, over the  
23 length of the line and, also, that wire design has  
24 about 10 percent more carrying capacity. So the  
25 line is actually designed above the reserves that we

1 normally design to. By using that wire we also have  
2 an additional 10 percent capacity for future use.

3 Q. And there was also a question about the  
4 150-foot right-of-way and what the purpose is of  
5 that right-of-way, and if you could address that,  
6 that would be appreciated.

7 A. All right. The main reason for the 150-  
8 foot right-of-way is to construct the line  
9 initially, but access for maintenance in the future.  
10 It also pre-establishes that right to re-access the  
11 line along that right-of-way. And it also is part  
12 of the National Electric Reliability Corporation's  
13 requirements for tree clearing, that sets the  
14 boundaries for safe clearance monitoring for that  
15 transmission line. So it also helps us address this  
16 question of closeness to grain bins, so that 75 foot  
17 on each side of our structure, which totals 150-foot  
18 right-of-way, we're saying that it's safe to build a  
19 building up to that 75-foot edge of that right-  
20 of-way, so a grain bin or any other building could  
21 be built up to 75-foot from the centerline of this  
22 project.

23 So the original 500-foot setback, you  
24 know, sets a pretty wide standard for, you know,  
25 avoiding existing homes, but, you know, a lot of

1 times that happens where a transmission line is put  
2 in place and there is buildings and grain bins and  
3 other structures that are built right up to the  
4 75-foot right-of-way and there is no safety or  
5 health concerns associated with doing that.

6 Q. Another question that was raised was about  
7 situations where a line were to go down. What is  
8 Minnkota's protocol when a line goes down as far as  
9 contacting landowners and addressing maintenance of  
10 the line that has gone down?

11 A. Right. For storm damage we do make every  
12 effort to call and let the landowners -- make them  
13 aware that we will be needing to access the  
14 property. So phone calls are made and voice  
15 messages are left. If we don't get ahold of the  
16 landowners, we do proceed on the property, and the  
17 overall effort is to try and use the right-of-way  
18 that was established, but under emergency conditions  
19 if the only access is to go off the right-of-way,  
20 Minnkota recognizes that we are responsible for  
21 damages that we cause when we do that, and we have  
22 followup to make sure that if that happened during  
23 an emergency situation where we couldn't get ahold  
24 of the landowner and get pre-clearance to do that,  
25 that the damages that were occurred are adequately

1 compensated for. And the reason we do that is, is,  
2 again, we have this obligation for, you know, the  
3 public welfare as being a transmission provider, so  
4 our first obligation is to get that transmission  
5 line in service as quickly as we can, because we  
6 know that we may have customers, both rural and  
7 urban, that are out of energy, out of service  
8 because of that downed power line.

9 Q. Another question that was raised had to do  
10 with trees and tree replacement. Can you address  
11 how Minnkota will handle tree replacement?

12 A. Right. We will be following the  
13 recommended protocol and procedure from the PSC.  
14 And, basically, it is we count the trees that we  
15 remove along the right-of-way and it's our  
16 obligation to replace them on a three-to-one  
17 basis -- is it two-to-one? Excuse me. I'm sorry.  
18 Two-to-one. I was being generous there. On a  
19 two-to-one basis. And the three comes in, we have a  
20 three-year obligation to follow up on the health of  
21 those trees.

22 And we will be contacting and contracting  
23 with the NRCS local offices to use their services to  
24 help us select suitable replacement species to plant  
25 and to monitor and to make recommendations for

1 replacement in those three years, making sure that  
2 those trees get established.

3 JUDGE HOBERG: For the record, what is  
4 NRCS?

5 MS. SMITH: National Resource Conservation  
6 Service.

7 THE WITNESS: Thank you.

8 MS. SMITH: You're welcome.

9 Q. (MS. SMITH CONTINUING) And I think the  
10 last question that I have for you, Mike, is  
11 regarding the proposal that there may be something  
12 that's being looked at with respect to the Jeff Topp  
13 property. If you could, provide a little bit more  
14 of a clarification on that potential Exhibit R that  
15 we've been discussing.

16 A. Generally, we've stated that we will try  
17 and work with the landowners and understand their  
18 requests when they are asking us to route the line  
19 differently on their property. And Mr. Topp has  
20 made a request and he made an offer to basically  
21 look at alternatives that wouldn't involve moving  
22 any structures on any other neighboring landowners'  
23 and that's one of the first criteria that we tell  
24 landowners that ask us to move, is that we will not,  
25 you know, voluntarily move a route off of your

1 property onto somebody else's property without  
2 having conversations with them and permission from  
3 them to consider that. So in Mr. Topp's case --

4 JUDGE HOBERG: You're speaking about Jeff  
5 Topp now; correct?

6 THE WITNESS: Yes, Jeff Topp. We are  
7 actively looking at what he's requested of us and we  
8 will analyze that and look at the potential for  
9 meeting the neighbors' requirements for not changing  
10 the route from what they've already assigned options  
11 or easements for. So the intent would be to --  
12 again, Mr. Topp's commitment was to only look at the  
13 route change if it could be accomplished on his  
14 land.

15 MS. SMITH: I have no further questions.

16 JUDGE HOBERG: Thank you, Ms. Smith.

17 Mr. Sagsveen.

18 MR. SAGSVEEN: I don't have any questions.

19 JUDGE HOBERG: Mr. Lien.

20 EXAMINATION

21 BY MR. LIEN:

22 Q. Yeah. There were some movements suggested  
23 by Mr. Weigum and I think he wanted it to follow the  
24 road, 23 there, and some other things. Are you  
25 working further with him?

1           A.     I think Mr. Phillips will be called up to  
2 address some of those issues and help explain, you  
3 know, the setback from the road requirement. You  
4 know, we cannot place our structures, you know,  
5 right at the road right-of-way. We have to have the  
6 edge of our right-of-way at the edge of the road  
7 right-of-way, so that does put it out in the field.  
8 And, quite frankly, you know, a lot of the  
9 landowners recognize that and ask us to put it out  
10 further in the field so that they can get their  
11 larger equipment from it. So it's kind of a  
12 landowner preference driven thing. A lot of the  
13 neighbors say, I've got 100-foot drill or fertilizer  
14 spreader that I want to have room between the pole  
15 and the road and by moving it a little further out,  
16 that helps us accommodate that. Again, you know,  
17 I'll let Mr. Phillips talk about the specifics of  
18 that, but that's generally driving, you know, our  
19 placement, is the neighboring landowner's request  
20 factors in, as well.

21           MR. LIEN:   So are you calling Mr. Phillips  
22 next?

23           MS. SMITH:   Yes.

24           MR. LIEN:   I'm sorry. I had that mixed  
25 up. That was Ryan Weber on 23rd Street. And we

1 also had Gary Weigum with the same kind of issues.  
2 So I'll just wait for Mr. Phillips then. Thank you.  
3 No further questions.

4 JUDGE HOBERG: Thank you, Mr. Lien.  
5 Commissioner Clark.

6 COMMISSIONER CLARK: No questions. Thank  
7 you.

8 JUDGE HOBERG: Commissioner Cramer.

9 EXAMINATION

10 BY COMMISSIONER CRAMER:

11 Q. Yeah, getting back to the capacity, the  
12 extra 10 percent, thank you for that explanation and  
13 also, the RUS explanation about the double-  
14 circuiting.

15 And I guess I kind of understand from a  
16 financing standpoint, but is there an attempt in  
17 these situations -- I guess you mentioned it -- to  
18 go to all of the potential generators in the area,  
19 and I know that's a big universe, especially when  
20 you talk about out-of-state wind companies that may  
21 have an interest and their future is uncertain and  
22 all that, but how much effort is there made to find  
23 opportunity for perhaps some efficiency there, first  
24 of all, and, second of all, maybe you could speak to  
25 the value of that efficiency, as well. In other

1 words -- in other words, is there anything -- is  
2 there any value to Minnkota to not try to find as  
3 much opportunity for efficiency and productivity on  
4 an investment like this? Maybe if I put it that  
5 way.

6 A. No. No, there's no advantage to us to not  
7 explore that and we are basically required to do  
8 that. And, for example, we are also involved in  
9 some of the Cap-X-20-20 projects and Minnkota, you  
10 know, is basically part of that study group and  
11 we're invited to have our input in the decisions and  
12 the transmission line that's connecting Fargo to  
13 Alexandria to St. Cloud to Monticello is being built  
14 with double-circuit structures with one side strung.  
15 So the decision was made to reserve. That's a  
16 transmission bottleneck that would most likely  
17 support additional wind generation, so the  
18 investment was made by the companies involved in  
19 that group to accommodate that.

20 In our case, we're back to that  
21 reliability issue and instead of putting all our  
22 eggs in one basket and having two circuits owned by  
23 Minnkota on the same structures, we have to take  
24 that into account in our studies and there's a  
25 penalty for that. So in the long-term planning, we

1 need this line to go back and rebuild our original  
2 line, so the next project will be probably a little  
3 more accepted by the landowners because we'll be  
4 coming back on the same easement and revisiting and  
5 asking that we'd like to replace that circuit with a  
6 newer one, with new capacity and new structures and  
7 new reliability and new conductor. You know, that's  
8 in the 30- to 50-year time frame and forward, but  
9 these days you can't take a line out of service for  
10 an extended amount of time to rebuild it. You have  
11 to leave it in service, so the only alternative is  
12 to build the network as like legs of a ladder.

13 These are the two outside legs of the ladder and  
14 then you build rungs in between. Right now we've  
15 only got one leg of the ladder and this new project  
16 provides that second leg.

17 Q. Thank you. Mr. Horneman was asking  
18 questions along these lines and one of his -- it  
19 appeared, anyway, that one of his concerns is with  
20 regard to capacity on this line for possible future  
21 wind projects, and I think in the corridor hearings  
22 we spoke, maybe you might have testified a little  
23 more to that, but are there some wind projects that  
24 would potentially be able to tie into this, that  
25 you're aware of or even rumored to be, but would

1 there be some opportunity for wind projects between  
2 Center and Grand Forks that would tap into this?

3 A. Yes. Most of the projects that we have  
4 are in Minnkota's queue right now and they're in the  
5 study phase, and if those projects don't develop,  
6 then this transmission line certainly would support  
7 additional wind projects between Center and Grand  
8 Forks. In fact, if you break the line up with the  
9 substation in the middle of it, you're actually  
10 improving the capacity of the line, so we have  
11 capacity that we, you know, can't really use because  
12 of the 250-mile length, but in the future, as load  
13 develops and we would introduce a substation midway,  
14 then the dynamics of the transmission system allow  
15 it to be loaded heavier than it can be if it's one  
16 longer line without any substations in between.

17 Q. And there's certainly incentive for  
18 Minnkota to have more generation and use the maximum  
19 capacity of that sunk investment, I would think.

20 A. That's correct.

21 Q. I think it was Mr. Hagemeister that made a  
22 statement, and I think it's worth just exploring a  
23 little further and you did a nice job a little bit  
24 ago, but just to give a sense of confidence about  
25 Minnkota's commitment to maintaining a clean right-

1 of-way during construction, post-construction, all  
2 those things. Because, to be honest, we site a lot  
3 of pipelines. There's a lot of companies that come  
4 in and out. Some of them are more transient than a  
5 Minnkota and I think that's not irrelevant in this  
6 situation. But sometimes after we leave here and  
7 the order is issued and construction begins and  
8 people are in the heat of it, sometimes things get a  
9 little bit sloppy.

10           Would you just sort of try to give us as  
11 much a sense of comfort as you can about Minnkota's  
12 commitment to cleanliness and help Mr. Hagemeister  
13 feel better about things when he leaves here today?

14           A.     Sure. Maybe just two seconds for a little  
15 history lesson, I guess.

16           Q.     Sure. That would be good.

17           A.     Minnkota Power Cooperative was formed in  
18 the 1940's by, you know, the local farmers and  
19 ranchers and small rural businessmen and a lot of  
20 those founders may be grandfathers or fathers to,  
21 you know, people along the route today. And the  
22 sole purpose of Minnkota was to make the rural  
23 community self-reliant on providing their electrical  
24 needs. And Minnkota has a long heritage of that and  
25 a long history of trying to be a good neighbor and

1 living up to that obligation and legacy that we've  
2 developed. And we do have -- we understand and we  
3 hear, we heard it at the County Commission meetings,  
4 we hear it at the township meetings, that these  
5 roads are the lifeblood, they're the farm-to-market.  
6 They're the export route for the product that they  
7 developed, just like this transmission line, you  
8 know, is a route for our product. So we understand  
9 that.

10 And we built into our contracts with the  
11 foundation contractor and the line construction  
12 contractor that they have responsibility to assess  
13 the roads and the condition they're in before we  
14 start and to maintain them and that means that we  
15 have line items in our budget that would reimburse  
16 them for re-graveling or filling in potholes that we  
17 create or if we rut it up and we're out there and  
18 it's too wet and we rut it up, we will fix it. Now,  
19 it may not get fixed, you know, in 24 hours, but  
20 Minnkota has an obligation and we have committed to  
21 that obligation at the local level that we will do  
22 our best to leave the neighborhood in as good a  
23 shape as we found it. And if we're not, then call  
24 me and let me know and we will get the contractors  
25 and they all have the heavy equipment. They all

1 know that that's part of their obligation to do  
2 that, so we will hold them to task to make sure that  
3 we're working as efficiently and taking into  
4 consideration, you know, when the roads will be used  
5 by the local community. That will play a factor, as  
6 well, and we'll try and pick routes that cause the  
7 least impact for everybody while we're out there.

8           It's a big project for Minnkota. It's a  
9 big project for North Dakota. We haven't done this  
10 in 30-some years, so, you know, we make mistakes as  
11 we are re-learning how to do this again, but I want  
12 to assure the Commission, I want to assure the  
13 landowners that Minnkota is committed to live up to  
14 that responsibility.

15           Q. Thank you. With regard to tree  
16 mitigation, we've talked about the tree mitigation  
17 plan. Hopefully, some folks have been able to see  
18 it in the back there, if they haven't previously,  
19 but beyond just planting two for one and making sure  
20 in three years that there's some percentage of them  
21 that still have to be living and it's fairly well  
22 laid out, but for a farmer, the particular trees on  
23 a farmer's land, do you work with the farmer so that  
24 you can plant those trees where he or she might want  
25 them, as opposed to right in the same place?

1           A.     Exactly.  We are always looking for, you  
2     know, landowners that want to host additional trees  
3     because we end up having more trees than we have  
4     locations to plant a lot of times.  So we encourage  
5     any landowner, if we remove trees on their land, to  
6     tell us where they would like to have them put back  
7     and we will accommodate that.  We are not, you know,  
8     putting them back in the same place because that's  
9     why we're removing them, you know, but we will  
10    accommodate that.

11          Q.     What if a landowner doesn't want any more  
12    trees and he says, Thank God, these guys came along  
13    and removed these trees for me for free.  What do we  
14    do then?  I don't even know what we do then.

15          A.     We count them and we have to replace them  
16    two-to-one somewhere else, so we find somebody else  
17    that wants trees.

18                COMMISSIONER CRAMER:  I don't think I have  
19    anything else.  Thank you.

20                JUDGE HOBERG:  Thank you, Commissioner  
21    Cramer.  Commissioner Kalk, please.  Anything  
22    further of Mr. Hennes?

23                MS. SMITH:  No, Your Honor.

24                JUDGE HOBERG:  Thank you, Mr. Hennes.  
25    Mr. Phillips?

1 MS. SMITH: Yes. Duane Phillips.

2 JUDGE HOBERG: Mr. Phillips, you're still  
3 considered to be under oath. Ms. Smith, please.

4 THE WITNESS: I understand that.

5 DUANE PHILLIPS,

6 having been previously sworn, was examined and  
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MS. SMITH:

10 Q. One of the questions that I think I forgot  
11 to ask you during the direct testimony was regarding  
12 a question that had come at the prior hearing about  
13 helicopter use during construction. So if you could  
14 address that, that would be great.

15 A. Yes. The question had to do with whether  
16 helicopter operations were going to be used to  
17 string in the wires, the different types of wires  
18 that are up there. It just so happened that we had  
19 a pre-bid meeting Wednesday morning of this week  
20 with the line contractors who are bidding on the  
21 project. We actually posed that question back to  
22 them and three out of the four are intending on  
23 using helicopter operations for stringing.

24 Q. Okay. And one of the questions that came  
25 up earlier during the public testimony had to do

1 with the route as it comes out of the Center sub and  
2 goes near the -- there's a residence there and the  
3 line dips to the south. Could you discuss the  
4 routing in that area?

5 A. The routing coming out of Center as  
6 depicted on Echo 1?

7 Q. Yes.

8 A. The routing coming out of the substation  
9 basically goes north of the Liverpool Wildlife  
10 Management Area and it comes across and there's an  
11 expanded corridor section through there that we  
12 looked at a number of different alternatives out of  
13 the corridor hearing that we had in there. So when  
14 we looked at that, there were -- you know, as we  
15 testified before, there was some small amount of  
16 cultural artifacts that were along that road. We  
17 were informed of the addition of the grain bins that  
18 Mr. Weber had talked about in that area, and what we  
19 did was we looked to see if we couldn't move down in  
20 that expanded corridor without getting too close to  
21 the DC line that currently runs through that.  
22 That's a 250 kilovolt DC line there. There's some  
23 design and engineering concerns about running high-  
24 voltage, high-power AC line next to a high voltage,  
25 high-power DC transmission line.

1           So we were able to find a compromise that  
2 went through there, that came across and then by  
3 diagonalizing down, real minimizing any impacts  
4 through that area, through the changed area there.  
5 By diagonalizing it down, we actually removed about a  
6 half-mile worth of the Weber property that was along  
7 that out, so we're actually diagonalizing down before  
8 their property on the western side, and it's very  
9 hard to see on the Echo 1 exhibit, but on some of  
10 the figures that are in there, you can look that we  
11 are able to find the diagonal that goes through  
12 there that really minimizes the land use impact as  
13 well by placing the structures right on the edge of  
14 the field and then going back up onto the original  
15 route.

16           So the re-route in that area that we are  
17 proposing or the route we are proposing in that  
18 area, I should say, really minimizes impacts through  
19 that area.

20           Q.    And there was a question about an area  
21 near Mr. Weigum's land, if you could discuss the  
22 routing through that area as well that would  
23 address, hopefully, the question?

24           A.    That would be on Echo 6. We talked about  
25 the routing going through here earlier on testimony

1 about looking at several different options through  
2 this expanded corridor region. Specifically, I  
3 believe that Mr. Weigum had asked the question about  
4 why not just take the route that is on the west side  
5 as it enters into that expanded corridor region and  
6 just keep going east with it. The challenge you run  
7 into, just over half a mile from where we are making  
8 the turn now, is that village of Brantford and,  
9 population notwithstanding, there are a number of  
10 historical buildings that are in that area and there  
11 is an occupied residence over there. And that would  
12 also pose a challenge with the occupied residences,  
13 the historical building and then how we would have  
14 to go across the pipeline and the railroad, so that  
15 really wasn't a very good option for us.

16 So, you know, as we talked about earlier  
17 really being driven more by were we going to go  
18 through this expanded corridor area to the northern  
19 portion of the corridor, were we going to go through  
20 the middle or were we going to go through something  
21 more southerly and minimize the impacts with all of  
22 the other considerations through there and with the  
23 landowner acceptance through this area that the  
24 route as proposed right now is -- was the one  
25 selected.

1 Q. And then there was a question from --  
2 about not staying -- why not stay on the section  
3 line, and I think this is Mr. Hagemeister's  
4 question. I'm trying to remember which road we were  
5 talking about. That must be on E5, I believe. If  
6 you could discuss that, as well. And, actually,  
7 before you do that, I have an exhibit to hand out.

8 JUDGE HOBERG: A new exhibit? So what  
9 should we call this?

10 MS. SMITH: It's Exhibit T.

11 JUDGE HOBERG: I know, but, generally  
12 speaking, you have some description, or is he going  
13 to describe it?

14 MS. SMITH: He's going to describe it and  
15 maybe that would be the easiest way afterwards.

16 JUDGE HOBERG: Sure. Sure.

17 Q. (MS. SMITH CONTINUING) So we'll walk  
18 through this. Duane, if you could walk through what  
19 was depicted in Exhibit T for us?

20 A. Yes, I will. If you can look down in the  
21 title block, kind of a little bit to the right, it  
22 says "CGF transmission line," and it says  
23 "right-of-way section line," that would be the title  
24 of the drawing.

25 What this drawing is depicting -- and,

1 again, we get asked this question an awful lot by  
2 landowners, is by North Dakota regulations, for the  
3 most part, we are not allowed to overlap the  
4 easement for the transmission line with the road  
5 right-of-way. So you can't -- you can't overlap  
6 that.

7 And one of the things that Mr. Hennes  
8 testified to is the width of that right-of-way is  
9 really there as a safety concern. So what the  
10 width, what that 150 feet is saying is under  
11 whatever weather conditions we have, if we have  
12 structures or objects that are outside of that  
13 easement, there's not going to be an electrical  
14 safety or a clearance issue. So we need to have the  
15 centerline, we need to have -- the structures need  
16 to go down the middle of the easement.

17 So what this is really kind of depicting  
18 for you is you have the section line on the left-  
19 hand side, you've got the 33 feet -- we have the 33  
20 feet on either side of that section line and that  
21 represents the pretty typical road right-of-way. I  
22 mean, the road right-of-ways do change based on what  
23 kind of road that's out there, but for the areas  
24 we're talking about, 33 feet is the vast majority of  
25 those. And then when we end up placing the easement

1 right next to the edge of the road right-of-way, it  
2 basically ends up with the centerline for the  
3 transmission line being 108 feet off the section  
4 line. And that's really as close as we can get for  
5 safe operation of the line and all those  
6 considerations to get there. So it's actually not  
7 possible for us to go right up against a road  
8 right-of-way with the structure itself. It becomes  
9 a safety issue.

10 MS. SMITH: And I would offer Exhibit T.

11 JUDGE HOBERG: Any objection to Exhibit T?

12 MR. SAGSVEEN: No, Your Honor.

13 JUDGE HOBERG: T is admitted.

14 COMMISSIONER CRAMER: Could I ask?

15 JUDGE HOBERG: Commissioner Cramer.

16 COMMISSIONER CRAMER: I want to make sure  
17 because the audience doesn't have this exhibit,  
18 perhaps would you have some copies?

19 MS. SMITH: I don't have. I have this  
20 copy and that copy.

21 COMMISSIONER CRAMER: The reason I ask,  
22 it's really a good illustration and maybe you all  
23 fully understood what he just said, but if not, I'm  
24 wondering if even turning one of those maps around  
25 and illustrating it on one of those white boards

1 with a marker might be helpful.

2 JUDGE HOBERG: Or maybe we could pass it  
3 around.

4 COMMISSIONER CRAMER: Or pass it around.  
5 It's a fairly significant fact, I think, in terms of  
6 why not right up against the right-of-way. That's  
7 all.

8 JUDGE HOBERG: Ms. Smith, please.

9 Q. (MS. SMITH CONTINUING) Sure. If you can  
10 also talk a little bit about the routing, then, in  
11 those areas, and this would be on Exhibit E5, across  
12 Section 5, I think is kind of where we're looking.  
13 If you could discuss the routing in those areas, in  
14 that area as well.

15 A. Well, the landowners in that area had  
16 asked us specifically where we were on the eastern  
17 portion of that expanded corridor section, which  
18 basically goes on either side of Highway 52. The  
19 landowners had asked us that if we were going to  
20 have a route that went across their land, to get it  
21 as north as they could in the section and that is  
22 what that line is depicting. That's as far north as  
23 we could get it.

24 Q. And I think there was a question about  
25 regeneration stations in general. There is a

1 regeneration station located in that area, if you  
2 could address just generally the location and what  
3 that's for?

4 A. One of the things that this transmission  
5 line will have on it is one of the shield wires will  
6 be an optical ground wire that has a fiberoptic  
7 communications in it to allow operations of the  
8 transmission line on either end, you know, that type  
9 of data and control system.

10 With that being said, a fiberoptic signal  
11 through that kind of a line won't just go on  
12 indefinitely and there's periodic distances that we  
13 need to upgrade that fiberoptic signal, kind of  
14 amplify and boost it back up. In the case of this  
15 project, we have those regeneration stations along  
16 the line every 50 to 55 miles. That was the other  
17 criteria that we used. A regeneration station is  
18 basically just one of the structures that we have  
19 picked where we will bring down that fiberoptic  
20 cable, bring it into a control house, which is not  
21 very large, but will be a building there, and it  
22 goes through amplification equipment that basically  
23 amplifies the signal and then we bring it back up  
24 the structure and send it on down the line. So  
25 those will be placed in those areas. Those will

1 have -- will have a permanent impact on those areas,  
2 but we've already had those discussions with those  
3 landowners in question.

4 MS. SMITH: I have no further questions.

5 JUDGE HOBERG: Thank you, Ms. Smith.  
6 Mr. Sagsveen.

7 MR. SAGSVEEN: I just have a couple  
8 questions.

9 CROSS-EXAMINATION

10 BY MR. SAGSVEEN:

11 Q. Regarding the Brantford townsite, I  
12 believe you just indicated there was a couple  
13 historical buildings, if I -- is that what you --  
14 how you described that area?

15 A. Yes. I believe there are two historical  
16 structures in that area. I would have to verify  
17 that with Mr. Hunker.

18 Q. And maybe he might be the best person to  
19 answer that. I'm looking at Appendix E, which is  
20 the historic building inventory and evaluation of  
21 the proposed route document, and in Table A1 it  
22 lists the Brantford townsite and it identifies the  
23 townsite as being outside of the APE, which is  
24 the -- I don't have my acronyms straight on me right  
25 now, but the area potential effect, and it says,

1 "The adjacent buildings are ruins."

2 Would there be some other buildings that  
3 this might -- that this table wouldn't have included  
4 or maybe you could clarify that?

5 A. No, those would have been the buildings.  
6 I don't believe they're in very good shape.

7 Q. Okay. So the buildings that you described  
8 in the previous testimony are the same buildings?

9 JUDGE HOBERG: The historical ones?

10 MR. SAGSVEEN: The historical ones.

11 JUDGE HOBERG: So you're in agreement that  
12 they're in ruins?

13 THE WITNESS: Yes.

14 MR. SAGSVEEN: I don't have any additional  
15 questions.

16 JUDGE HOBERG: Thank you. Mr. Lien.

17 EXAMINATION

18 BY MR. LIEN:

19 Q. I guess I would wonder if they're in  
20 ruins, why we care?

21 A. I believe you're asking the wrong person,  
22 Mr. Lien. I don't have an answer to that.

23 Q. If they have been compromised, has the  
24 Historical Society said they need to avoid them?

25 A. We would have to talk to Mr. Hunker about

1 that. He would have the details on the sensitivity  
2 of that. The fact remains that there are buildings  
3 there and there's an occupied residence there and we  
4 can't route through that area.

5 Q. There is an occupied residence. I thought  
6 the public testimony said there was none?

7 A. The map shows a yellow dot for an occupied  
8 or occupiable residence right in that immediate  
9 proximity.

10 Q. I saw that, too. And I was wondering if  
11 it had been abandoned.

12 A. I can't answer the question, if there's  
13 anybody actively living there at the time.

14 JUDGE HOBERG: But the yellow dots show  
15 either occupied or occupiable; correct?

16 THE WITNESS: Yes, that is correct.

17 Q. (MR. LIEN CONTINUING) I guess at this  
18 point I'm not totally clear why we needed to jog  
19 south there.

20 JUDGE HOBERG: Did you wish Mr. Hunker to  
21 address that?

22 MR. LIEN: Sure.

23 JUDGE HOBERG: We'll maybe call him.

24 THE WITNESS: What's the question,  
25 Mr. Lien, you're not sure why we had to jog south?

1 Q. (MR. LIEN CONTINUING) Yeah, to miss  
2 Branford. Was it the historical significance of it  
3 or is it still a town? It looked like the landowner  
4 didn't want to miss it.

5 A. There are buildings in that area and to go  
6 across with an occupied residence that close, we  
7 picked a route to get to the southernmost -- I'm  
8 sorry -- not the southernmost, but to get down to  
9 the route that the landowners requested through this  
10 area that had the least amount of impact and that  
11 was through Section 34 on the corner line and was  
12 based on discussions with landowners throughout this  
13 region.

14 MR. LIEN: No further questions.

15 JUDGE HOBERG: Thank you, Mr. Lien.  
16 Commissioner Clark, please.

17 EXAMINATION

18 BY COMMISSIONER CLARK:

19 Q. Just one question related to the inability  
20 to have the utility right-of-way overlap with the  
21 road right-of-way. You mentioned North Dakota  
22 regulations that provide for that. Can you describe  
23 what those are? Just refer -- is it a DOT issue?  
24 Is it township by township? Is it --

25 A. I don't know the exact reference for that

1 as to whether that's a Century Code or whether  
2 that's a department of regulation. I believe it is  
3 my understanding that most of those section line  
4 regulations associated with that are Century Code  
5 related, but I could be incorrect on that.

6 JUDGE HOBERG: You also described it as a  
7 safety issue, though, too; correct?

8 THE WITNESS: Well, the right-of-way  
9 width, which is, I believe, what you're asking,  
10 where those regulations exist, I mean, that's the  
11 guidelines that we work with.

12 COMMISSIONER CLARK: Right. If it's  
13 possible as a late-filed exhibit --

14 MS. SMITH: I'm sorry. I didn't hear the  
15 question.

16 COMMISSIONER CLARK: The question would  
17 just be Mr. Phillips testified to the fact that  
18 there's an inability for the utility right-of-way to  
19 overlap with the 33-foot right-of-way on either side  
20 of a section line road and I was wondering -- and I  
21 believe it had to do with some North Dakota  
22 regulations, and I was just wondering if there's a  
23 cite that we could get for that, whether it was  
24 Century Code or just DOT operating guidance or --

25 JUDGE HOBERG: Or a rule?

1                   COMMISSIONER CLARK:  -- or a rule or  
2 whatever the regulation is that guides that.

3                   MS. SMITH:  Okay.  Well, I know that 33  
4 feet on either side of the section line is a public  
5 right-of-way so that is under law in the Code.

6                   COMMISSIONER CLARK:  Right.  And then --

7                   MS. SMITH:  The question is about the  
8 overlap?

9                   COMMISSIONER CLARK:  If you could provide  
10 a cite for that in the Century Code and then also  
11 with regard to the issue of the utility right-  
12 of-way, maybe it's just done and it's not written  
13 anywhere, that the utility right-of-way and that 33  
14 foot on either side right-of-way -- 33 feet on  
15 either side of right-of-way cannot overlap.

16                   MS. SMITH:  Okay.  Sure.

17                   COMMISSIONER CLARK:  Maybe it's just the  
18 nature of the right-of-way itself and Century Code  
19 would prohibit any overlap.

20                   MS. SMITH:  I don't know if that's a rule  
21 or if that's a regulation, but we can discuss that  
22 and provide you with something.

23                   COMMISSIONER CLARK:  Sure.  Thank you.

24                   JUDGE HOBERG:  That will be late-filed,  
25 just a letter or something?

1 MS. SMITH: We'll address it in a letter.

2 JUDGE HOBERG: Okay. That will be "U"

3 then, late-filed Exhibit U.

4 MS. SMITH: Okay.

5 JUDGE HOBERG: Commissioner Clark.

6 COMMISSIONER CLARK: That's all I have.

7 Thanks.

8 JUDGE HOBERG: Thank you. Commissioner

9 Cramer.

10 COMMISSIONER CRAMER: I would have just an

11 additional question.

12 EXAMINATION

13 BY COMMISSIONER CRAMER:

14 Q. Do you believe that that 33-foot right-  
15 of-way issue, does that relate only to improved  
16 roads or --

17 MS. SMITH: No. I can answer that. No,  
18 every section line 33 feet, unless it's been  
19 vacated, is a public right-of-way regardless of  
20 whether it's improved or not.

21 COMMISSIONER CRAMER: I have nothing  
22 further.

23 JUDGE HOBERG: Thank you, Commissioner  
24 Cramer. Commissioner Kalk, please.

25 COMMISSIONER KALK: Yeah, actually I have

1 a few.

2 EXAMINATION

3 BY MR. KALK:

4 Q. Mr. Phillips, I need to clear up couple  
5 things in my own mind, I guess.

6 We're talking about the testimony of  
7 Mr. Weigum. You said there was an occupied  
8 residence, but his testimony said there was no  
9 occupied residences. So, I mean, do you know that  
10 that is an occupied residence in the town of  
11 Branford?

12 A. Well, I don't know personally whether  
13 that's occupied at this point. During our research  
14 in the beginning of the project, it was determined  
15 to be occupiable, which is --

16 Q. But these dots don't say "occupiable,"  
17 they say "occupied." That's what the dots say.  
18 They don't say they're occupied residences. We had  
19 a lot of discussion whether it's occupiable or not.  
20 My understanding is the yellow dots mean they're  
21 occupied homes; is that correct?

22 MS. SMITH: Mr. Kalk, can I point to  
23 something from our prior testimony -- from prior  
24 testimony at this Carrington hearing?

25 COMMISSIONER KALK: Please help me out.

1 MS. SMITH: In that testimony Mr. Weigum  
2 or Weigum, however, I may say it incorrectly, stated  
3 there were two people, a married couple, that lives  
4 there part-time, so there is a home that is occupied  
5 part of the time, is what the prior testimony was,  
6 and that would match with the yellow dot on our map  
7 as well.

8 JUDGE HOBERG: But I also asked you,  
9 Mr. Phillips, whether the yellow dots were occupied  
10 or occupiable and you said they were either one, it  
11 could be either one; correct?

12 THE WITNESS: Yes, that is correct. That  
13 is my understanding, is that the yellow dots are  
14 homes that are either occupied, that somebody is  
15 there now or they were occupiable homes. Whether  
16 somebody lives their part-time or full-time.

17 Q. (COMMISSIONER KALK CONTINUING) All right.  
18 Now, then, the second thing was, is the -- I guess  
19 the next witness is going to come up and talk about  
20 whether those ruins are archeologically significant,  
21 I guess. I'm guessing that. Because I do -- Mr.  
22 Lien's question about --

23 What I'm trying to get to, I guess, is  
24 that the landowner -- you made it sound like the  
25 landowner wishes were to go south and the landowner

1 was up here saying he wished to continue going east  
2 before going south, so there's contradiction there,  
3 I guess. If it turns out that -- I guess why  
4 couldn't you run a little bit farther east before  
5 going south as long as you keep that 500-foot back  
6 from the occupied home?

7 Is there any other reason other than the  
8 home -- I understand with the home being there, you  
9 can't continue east for the next two or three miles,  
10 but could you go farther east than you're going  
11 right now?

12 A. Would it be possible to go further east --

13 Q. Before turning south.

14 A. -- than where we are now?

15 Q. Yes.

16 A. Yes, it would.

17 JUDGE HOBERG: Okay. Thank you,  
18 Commissioner Kalk. Any further questions of  
19 Mr. Phillips?

20 MS. SMITH: Yes.

21 JUDGE HOBERG: I'm sorry. Commissioner  
22 Clark. I'm sorry.

23 FURTHER EXAMINATION

24 BY COMMISSIONER CLARK:

25 Q. Your response to one of Commissioner

1 Kalk's questions reminded me of one that I had. I  
2 do note that the key -- and I guess I hadn't noticed  
3 this specifically before. But the key for those  
4 yellow dots does say occupiable, so it would cover  
5 both. But that raises a question that I have about  
6 Mr. Weber's property then in Oliver County near the  
7 Center substation, which -- is that not marked on  
8 the map then or am I --

9 A. It is very hard to see on Echo 1. Do you  
10 have the figures from the figure book? It might be  
11 easier to see on that, Commissioner.

12 Q. Well, but it just -- so is the yellow dot  
13 missing from E1?

14 A. Mr. Weber testified that there was an  
15 occupiable home there. I do not know that one way  
16 or the other. It was not my understanding that  
17 there was an occupiable home there, but it's  
18 certainly something we can look at.

19 COMMISSIONER CLARK: Yeah. I think the  
20 record will need to be supplemented. If we've got a  
21 landowner who says there's an occupiable home there  
22 and it's not on there, then it's more than kind of a  
23 typographical thing, it could also trigger the  
24 500-foot exclusion area.

25 MS. SMITH: I have a question about -- may

1 I ask you a question? The standard is actually 500  
2 feet from an occupied residence, so just for  
3 clarification, so that I understand, I don't want to  
4 get too far outside of what the statute requires.  
5 I'm happy to provide the information, just want to  
6 make sure we're consistent.

7 COMMISSIONER CLARK: But even then you  
8 would still have a problem with the exhibit itself.

9 MS. SMITH: Well, sure.

10 COMMISSIONER CLARK: Which would seem to  
11 have missed an occupiable residence.

12 MS. SMITH: That is certainly true. I  
13 just want to make sure I understand what's being  
14 requested.

15 JUDGE HOBERG: All you're requesting is a  
16 late-filed exhibit identifying whether that's an  
17 occupiable home and if it is, to provide the  
18 location; correct?

19 COMMISSIONER CLARK: That's exactly right  
20 and if it -- yes.

21 JUDGE HOBERG: Okay. Then you can provide  
22 that also with late-filed Exhibit V, please.

23 COMMISSIONER CLARK: And the question of  
24 whether it triggers the 500-foot exclusion area may  
25 or may not become relevant.

1 JUDGE HOBERG: Right.

2 COMMISSIONER CLARK: But having an  
3 accurate exhibit is relevant.

4 JUDGE HOBERG: Ms. Smith, did you have  
5 another question of Mr. Phillips?

6 MS. SMITH: I do.

7 REDIRECT EXAMINATION

8 BY MS. SMITH:

9 Q. So going back, I think we were on E6, if I  
10 remember correctly, and we were talking about the  
11 village of Branford. Even if there was --  
12 regardless of whether there's occupied or not  
13 occupied homes there, would you have to remove  
14 structures in order to place the transmission line  
15 across the location where Branford is located?

16 A. So if we took the line due east and went  
17 through the area where Branford is, would we have to  
18 remove the structures; is that your question?

19 Q. Yes.

20 A. Yes, there could be no structures within  
21 the 150-foot right-of-way.

22 Q. Okay. And would that all stay -- would  
23 that only affect -- if you did route north, would  
24 that only affect one landowner or would it affect  
25 other landowners, as well?

1           A.     That would affect more than one landowner,  
2     I believe. I would have to look at a landowner  
3     breakdown and I can't tell that right now, but I  
4     believe that would be more than one landowner.

5           Q.     And so, at least our understanding is,  
6     within the village of Brantford could be other  
7     landowners that live there besides just Mr. Weigum  
8     in this area?

9           A.     Yes, there are definitely more than one  
10    landowner involved in that.

11           MS. SMITH: I have no further questions.

12           JUDGE HOBERG: Anything further then of  
13    Mr. Phillips? Mr. Sagsveen.

14           MR. SAGSVEEN: I don't have any additional  
15    questions.

16           JUDGE HOBERG: Thank you, Mr. Phillips.

17           THE WITNESS: Thank you.

18           JUDGE HOBERG: Were you going to recall  
19    Mr. Hunker?

20           MS. SMITH: I guess so.

21           JUDGE HOBERG: Mr. Hunker, please. Thank  
22    you, Mr. Hunker. And I just need to remind you, you  
23    are still considered to be under oath. And I think  
24    you're going to address the Brantford question, but  
25    I'll let Ms. Smith ask it.

1 MS. SMITH: That's fine. Go ahead.

2 BRIAN HUNKER,  
3 having been previously sworn, was examined and  
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MS. SMITH:

7 Q. There was a question about the Branford  
8 area and historic structures.

9 A. Correct. The town of Branford is outside  
10 of our architectural APE, which is a half-mile on  
11 either side of the route, so that area wasn't  
12 specifically explored. Now, it was our  
13 understanding just from kind of some windshield  
14 surveys in that area that many of the buildings  
15 there did appear to be historic based on the  
16 architectural APE that probably abutted the site or  
17 the townsite boundary. Some of the buildings may  
18 have been torn down or in some degree of a ruin form  
19 and, you know, I guess at this time I can talk with  
20 our architectural historian and get back to you guys  
21 with some more detailed information.

22 MS. SMITH: I have no further questions.

23 JUDGE HOBERG: Thank you. Is that the  
24 Commission's wish? Mr. Lien, that actually came up  
25 with your question, Mr. Lien.

1 MR. LIEN: For me it's part of a bigger  
2 question. Looking at Mr. Weigum and Mr. Weber's  
3 concerns on the route, I'm wondering if we can get  
4 some kind of a late-filed exhibit just addressing  
5 whatever efforts are made to see if there's  
6 something that can be worked out in those areas.

7 MS. SMITH: I'm sorry. I did not hear the  
8 beginning of what you were saying.

9 MR. LIEN: I was looking at the testimony  
10 from Mr. Weigum and Mr. Weber and wondering if we  
11 can get some kind of a late-filed exhibit that just  
12 explains the efforts and any results that might have  
13 been made to accommodate what they're looking for  
14 out of this route. I think Mr. Weigum wanted it  
15 moved north a little bit. Nobody lives in Branford.  
16 And Mr. Weber wanted it to stay along Highway 23,  
17 said that home is unoccupied or anything else that  
18 could be worked out in those areas.

19 MS. SMITH: Can we go back to Highway 23?  
20 Where are you referencing? Can you point me to  
21 somewhere?

22 MR. LIEN: In Oliver County.

23 MS. SMITH: There is a home. I don't want  
24 to start testifying myself. I think we have  
25 addressed the issues there so I don't anticipate

1 that we plan to file a late-filed exhibit for that  
2 one, and I think we have just addressed much of the  
3 information in this area, as well. The one thing I  
4 say is there's not a specific route proposed so we  
5 don't have anything to respond to, unlike other  
6 situations.

7 MR. LIEN: Okay.

8 JUDGE HOBERG: Okay.

9 MR. LIEN: No further questions.

10 JUDGE HOBERG: Thank you, Mr. Lien.  
11 Commissioner Clark.

12 COMMISSIONER CLARK: I don't have any  
13 questions, but it sounds like I'll be learning more  
14 about historic Branford than I ever thought I might.  
15 I'll look forward to those exhibits.

16 COMMISSIONER CRAMER: I don't have any  
17 questions either, except that -- yeah, I have no  
18 questions at all.

19 JUDGE HOBERG: Thank you. Commissioner  
20 Kalk. I'm sorry. Commissioner Kalk, please.

21 COMMISSIONER KALK: Well, just to follow  
22 up on Jerry's a little bit. This may not be for  
23 this witness, but is there a possibility that  
24 Mr. Weigum and the company can visit about changes  
25 that are all-inclusive of his property? I think

1 that's what Mr. Weigum is trying to get to.

2 MS. SMITH: I would rather have another  
3 witness address that, but I would need some time to  
4 stop and visit with him first to see what we can  
5 address.

6 COMMISSIONER KALK: How about this? How  
7 about what I'll just do is wait for the exhibits to  
8 come in and we can address that in our work session.

9 MS. SMITH: I just want to make sure that  
10 what we provide is sufficient, but I would rather do  
11 it on the record here today, if possible, than keep  
12 submitting late-filed exhibits.

13 COMMISSIONER KALK: I don't think there's  
14 anything else you can really address today. I think  
15 the questions are out there and we'll address that.

16 MS. SMITH: Okay.

17 JUDGE HOBERG: So there is no late-filed  
18 Exhibit W?

19 MS. SMITH: I'm trying to make sure I  
20 understand what the late-filed exhibits are. I've  
21 got late-filed Exhibit U, which is about the section  
22 line right-of-way --

23 JUDGE HOBERG: Right.

24 MS. SMITH: -- citations.

25 JUDGE HOBERG: Right.

1 MS. SMITH: Then V is?

2 JUDGE HOBERG: Location of the occupiable  
3 house in E1.

4 MS. SMITH: Whether there is one.

5 JUDGE HOBERG: Whether there is one,  
6 right. And the location, if there is one.

7 MS. SMITH: That's all that I have as  
8 late-filed exhibits at this point, other than --

9 JUDGE HOBERG: Right. We were starting to  
10 talk about W, but you're not providing one there,  
11 right, that was Mr. Lien's concern.

12 MS. SMITH: Well, I just heard a comment  
13 from Mr. Clark about learning more about historic  
14 Branford, and I didn't think that we were providing  
15 any more about historic Branford so I need to know  
16 if we are.

17 COMMISSIONER KALK: I think that was  
18 something that the witness offered up, was a further  
19 study of the area.

20 MS. SMITH: The area was not studied for  
21 this route, so that would be going beyond the  
22 studies that are part of this. For this route they  
23 studied an APE. That is not part of this process,  
24 so if you want more information --

25 COMMISSIONER KALK: What did the witness

1 offer up? You offered up something. You said  
2 something.

3 THE WITNESS: Sure. I can talk to our  
4 architectural historian and provide some notes.

5 MS. SMITH: So notes. Not a study.  
6 There's a difference. So I just want to make sure I  
7 understand.

8 COMMISSIONER KALK: That's fine.

9 JUDGE HOBERG: There be will be a  
10 late-filed Exhibit W then.

11 MS. SMITH: I guess so.

12 JUDGE HOBERG: Architectural notes on  
13 Brantford, town of Brantford.

14 COMMISSIONER KALK: And that sounds  
15 reasonable.

16 MS. SMITH: Okay.

17 JUDGE HOBERG: Okay. Thank you,  
18 Mr. Hunker.

19 Does that conclude your rebuttal,  
20 Ms. Smith?

21 MS. SMITH: Just a second. Yes, that's  
22 it.

23 JUDGE HOBERG: All right. So that  
24 concludes the evidentiary portion of the hearing  
25 then. We've had the applicant's presentation, the

1 public testimony and the applicant's rebuttal, and  
2 now we are going to talk about filings to conclude  
3 this. In other words, filings by the applicant,  
4 which the Commission traditionally requests,  
5 proposed findings of fact, conclusions of law and  
6 order.

7 Do you wish to submit those, Ms. Smith?

8 MS. SMITH: Yes, Your Honor. We'll submit  
9 those with the late-filed exhibits, if that will  
10 work.

11 JUDGE HOBERG: Okay. And, again, those  
12 are proposed. These are something for the  
13 Commission to consider in making its decision. They  
14 will review those, along with the complete record in  
15 this matter and the late-filed exhibits, and then  
16 they'll issue their final findings of fact,  
17 conclusions of law and order.

18 Can you give us a time frame, Ms. Smith?

19 MS. SMITH: I actually can't until I talk  
20 with my client, so I can certainly send an update as  
21 needed to you.

22 JUDGE HOBERG: Can you give us an update  
23 within, what, a few days?

24 MS. SMITH: Sure.

25 JUDGE HOBERG: Okay. So maybe send

1 something to Mr. Lien about when those are going to  
2 be filed.

3 MS. SMITH: Sure, I will do that.

4 JUDGE HOBERG: Okay. Then as the  
5 Commissioner said, there will be a work session  
6 after all that has been received and then the  
7 Commission will proceed to issuing its final  
8 decision in this matter.

9 Anything else to bring to the attention of  
10 the Commission before we close? I'm going to  
11 shortly call on them for their comments.

12 MR. JERRY HAGEMEISTER: Yes, you didn't  
13 address the annual payment for a 99-year lease. I  
14 don't expect to live that long, but somebody might  
15 wonder why they got poles on their land and they  
16 aren't getting any payment.

17 JUDGE HOBERG: I didn't get your name,  
18 sir.

19 THE WITNESS: Hagemeister, Jerry.

20 JUDGE HOBERG: Jerry Hagemeister. Well,  
21 as I explained to some extent before, it's not  
22 necessarily the purpose of the Commission to answer  
23 every question that's been raised.

24 MR. JERRY HAGEMEISTER: Well, whose  
25 purpose is it then?

1                   JUDGE HOBERG: Well, that's not within the  
2 Commission's jurisdiction, actually, even.

3                   Commissioner Clark.

4                   COMMISSIONER CLARK: At most of our  
5 hearings this question has come up. We didn't  
6 specifically mention it today, but since there were  
7 a couple questions, I can just briefly run over it.

8                   The questions with regard to compensation,  
9 because they're tied to -- because they're tied to  
10 land access are specifically the purvey of the  
11 courts, which is while -- I think we've all  
12 mentioned it probably at some point during one of  
13 these hearings. We appreciate hearing those  
14 concerns because we talk to other policymakers. We  
15 talk to legislators, people like that. At least the  
16 law as it is, is pretty clear that only courts can  
17 set what the compensation is ultimately for someone  
18 to get access to your land. And so it's part of  
19 that proceeding, as opposed to a siting proceeding,  
20 which, I suspect, is why the company may not have  
21 asked the question. If it comes up, it will be in  
22 the context of a court proceeding, not a Public  
23 Service Commission siting hearing, which actually  
24 specifically can't take into consideration those  
25 sorts of land easement access payment negotiation

1 issues between landowners and the company.

2 JUDGE HOBERG: Thank you, Commissioner  
3 Clark. All right.

4 MR. MARK HAGEMEISTER: So wait a minute.  
5 You're saying you can approve the project, but you  
6 can't specify how they're going to do the  
7 compensation?

8 COMMISSIONER CLARK: Correct.

9 JUDGE HOBERG: That's exactly right.

10 MR. MARK HAGEMEISTER: So how do you know  
11 what they're approving? How do you know they're  
12 going to pay any compensation? It's just not your  
13 thing?

14 COMMISSIONER CRAMER: Well, we don't have  
15 authority.

16 JUDGE HOBERG: They don't have any  
17 authority.

18 COMMISSIONER CRAMER: The courts.

19 MR. MARK HAGEMEISTER: Maybe you should be  
20 on the landowner's side and work with the courts  
21 then. That's what we're asking for, that the Public  
22 Service Commission looks out for our interests. We  
23 have a hard time doing that individually. As you  
24 can see, Minnkota doesn't want to work individually.  
25 They don't listen to the concerns.

1                   COMMISSIONER CLARK: And I think the short  
2 answer would be it would take a legislative change.  
3 You would have to talk to your legislator about  
4 that.

5                   MR. MARK HAGEMEISTER: Would it be  
6 reasonable to assume Minnkota would offer a 99-year  
7 fixed rate on the --

8                   JUDGE HOBERG: Mr. Hagemeister.  
9 Mr. Hagemeister, we've finished with the public  
10 testimony at this time. I know you have additional  
11 concerns and questions, but I think they're beyond  
12 the purvey of what the Commission has jurisdiction  
13 over.

14                   MR. MARK HAGEMEISTER: I wasn't aware of  
15 that. I was not aware that they didn't have  
16 jurisdiction over that.

17                   JUDGE HOBERG: And I think Commissioner  
18 Clark is right, that's a legislative concern.

19                   MR. MARK HAGEMEISTER: I sure hope they  
20 are on our side then.

21                   JUDGE HOBERG: All right. It's about 4 --  
22 I'm sorry -- 3:40. If there's nothing else to bring  
23 to the attention of the Commission, I will close  
24 this hearing.

25                   MR. WEBER: Can you clarify something that

1 was talked about --

2 JUDGE HOBERG: No. At this point in time,  
3 I'm going to close the hearing, Mr. Weber. The  
4 hearing is closed.

5 (Concluded at 3:45 p.m., the same day.)

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