

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Environmental Law & Policy  
Center and Dakota Resource  
Council,

Case No. PU-18-223

Complainants/  
Petitioners,

OAH File No. 2018-0356

vs.

Meridian Energy Group, Inc.,  
Respondent.

**TRANSCRIPT OF INFORMATION EXCHANGE MEETING**

DATE: December 19, 2017

PLACE: Public Service Commission  
State Capitol  
Bismarck, North Dakota

1           COMMISSIONER CHRISTMANN: Good morning,  
2 everyone. It is 9:00, December 19, 2017. I'm Randy  
3 Christmann, chairman of the Public Service Commission.  
4 And with me are Brian Kroshus and Julie Fedorchak, the  
5 other two commissioners. Although a quorum isn't really  
6 an issue here because this is not a meeting per se as  
7 Public Service Commission meetings go. It's just a  
8 sit-down conversation with a company. And an  
9 interesting situation here. Well, I'll get into that  
10 more in some opening comments.

11           We're still waiting on one more staff person to  
12 come in, and I believe has just arrived.

13           So before we even start with opening comments or  
14 start with a discussion, I'd like to have everyone go  
15 around the table and just introduce themselves so we  
16 have names and can go about a dialogue. So we'll start  
17 with our Commission staff person, Patrick Fahn here.  
18 But just go around and introduce yourselves.

19           MR. FAHN: I'm Patrick Fahn. I'm the director  
20 of the Public Utilities Division here at the Commission.

21           MR. SCHUH: John Schuh, PSC staff.

22           MR. WILLIAMS: Adam Williams, director of  
23 communications for Meridian.

24           COMMISSIONER CHRISTMANN: I'm sorry, what was  
25 your first name?

1 MR. WILLIAMS: Adam.

2 MR. GOSECO: Frank Goseco, executive vice  
3 president, general counsel.

4 COMMISSIONER CHRISTMANN: Hold it here, you're  
5 going too fast for me to write down. Frank what?

6 MR. GOSECO: Goseco.

7 COMMISSIONER CHRISTMANN: Could you spell it,  
8 please?

9 MR. GOSECO: G-O-S-E-C-O.

10 COMMISSIONER CHRISTMANN: Okay.

11 MR. PRENTICE: Bill Prentice, CEO of Meridian.

12 MR. BENDER: Lawrence Bender. I'm a lawyer in  
13 Bismarck and I represent Meridian.

14 MR. HEDRINGTON: Dan Hedrington and I'm with  
15 SEH. We're an engineering firm. I'm part of the design  
16 team.

17 MR. KESSEL: Greg Kessel. I'm the landowner,  
18 lifetime Billings County resident, and part of Meridian.

19 COMMISSIONER CHRISTMANN: Okay. So this is kind  
20 of a little bit of an unusual situation for us. Most of  
21 the time, if we were having a -- when I use the term  
22 "meeting" as an official term, we would have a case  
23 before us. And we don't. So this isn't one of our  
24 meetings per se.

25 Typically, everything that we do with a quorum

1 around here is open to the public. And we try to kind  
2 of bend over backwards to make sure that the public and  
3 the press are aware of these things. Typically, we  
4 would only broadcast a real case that we have.

5 We're making an exception because, I mean, this  
6 has been in the news, there's been things written about  
7 it in the press, and so we are broadcasting this even  
8 though it's not a case, but that is one exception.

9 I also want to say that this is a situation  
10 where, because it's been in the public eye, the company  
11 has come in to visit with us. And so this is not going  
12 to be a situation for anyone else to be asking  
13 questions. This is a discussion between the company and  
14 us. And I think that needs to be respected. I  
15 appreciate the fact that the company is coming in to  
16 address what seems to be different perceptions about  
17 what is being constructed and whether it falls into  
18 siting thresholds that we go by, by the law.

19 There are some interesting things that I think  
20 it's important for the public to understand. First of  
21 all, I've heard and read things about you guys need to  
22 make them come in and apply for a siting permit. I  
23 don't really see anywhere in the law where we can compel  
24 someone to come in and apply for a siting permit.

25 If someone is building something that requires

1 siting -- and this hasn't happened so I'm kind of just  
2 making assumptions about what would happen. If someone  
3 is building something that, let's say it wasn't a  
4 disputed situation but definitely required siting as  
5 soon as they would turn over ground, someone would, I  
6 assume, realize that and file a complaint here and we'd  
7 end up in a case and everything would get delayed for  
8 them. But until they would start that, nothing has  
9 happened. They haven't applied. So we don't have a  
10 case to deal with to compel someone to come in and  
11 apply.

12 That's just the law. That's not our decision.  
13 It just is what the law is.

14 And then it's also important to remember, and I  
15 don't know the timing of when these thresholds were set,  
16 but there are very specific guidelines in the law as to  
17 when gas or liquid energy conversion facilities, and  
18 that's what this would be, when they need to have a  
19 siting permit from the PSC in order to build.

20 And there are three. One is for refining of  
21 gas, and that's 100 million cubic feet per day. And I'm  
22 getting to a point on this. The other is for refinement  
23 of liquid hydrocarbons, and that is 50,000 barrels per  
24 day. What I found most interesting in planning for  
25 today is this last one, and that is enrichment of

1 uranium minerals, and there is no number. So if you  
2 were enriching uranium minerals, it wouldn't matter the  
3 size, the legislature has said that you need a siting  
4 certificate. But with the gas and with the liquids,  
5 they have set thresholds in the case of liquids, and in  
6 this case it's 50,000 barrels.

7 So it's clear that the legislature has  
8 contemplated this, and in one instance said any of this  
9 activity would require a permit. In the other two has  
10 said, well, above a certain threshold. I didn't  
11 remember that about the uranium, but it's clear that  
12 these thresholds have been set and set for a purpose by  
13 the legislature.

14 So now the discussion, in my mind, will revolve  
15 around just what is being built here over the course of  
16 planning. And I don't remember the first time I ever  
17 heard of this but probably at least a couple of years.  
18 It seems I've heard different numbers thrown about. And  
19 so I think it will be interesting to have a discussion  
20 with the company and find out just what is in the  
21 planning stages as of right now.

22 Commissioner Kroshus, did you have any opening  
23 comments?

24 COMMISSIONER KROSHUS: I just want to say thank  
25 you for coming in to, hopefully, answer some of the

1 questions that I have.

2 Obviously, there are two issues at hand here.  
3 One is of public interest, and that -- related to public  
4 interest, and that would be proximity to the park. And  
5 that's not a siting criteria for the Commission itself.  
6 It can come into play. But the second would be the  
7 threshold for whether or not you do or do not have to  
8 come in and get a siting permit for the facility.

9 There has been just a considerable amount of  
10 press on this and even on -- I think the question that  
11 keeps coming up for me and one that -- the primary  
12 question is just in terms of some of the information  
13 that, even through your own press releases from a year  
14 ago, was at 55,000 barrels, I think I read one quote at  
15 60,000 barrels, and now it's at 49,500 barrels, just  
16 under the threshold, which would mean it's not  
17 jurisdictional to the Public Service Commission. But  
18 that will be one of the big underlying questions that I  
19 have as we visit and have a conversation about this.

20 And then I'll also have some questions as well  
21 in terms of location and proximity to the park and just  
22 why that particular location was selected. And I'm  
23 quite certain we'll get -- I'll get some answers on both  
24 of those. So that would -- that would conclude my  
25 remarks at this point.

1           COMMISSIONER CHRISTMANN:  And even though we  
2 don't have a case, if we did have a case having to do  
3 with liquid hydrocarbon product refinement, it would  
4 fall under Commissioner Fedorchak's portfolio so we're  
5 going to kind of just pretend like it is and that's why  
6 she's going to go last and now evolve it into the  
7 company's statements.

8           There was one other point that I wanted to make  
9 for people who aren't familiar with Public Service  
10 Commission activities, either in the room or watching  
11 the broadcast.  If in fact we were in a siting hearing  
12 or many other types of hearings that we have here, we  
13 often involve an administrative law judge and the  
14 witnesses would be under oath.  We don't have a case, so  
15 the company people are not under oath here today.

16           However, these things are recorded.  And if we  
17 ultimately end up in a case, I could envision people  
18 challenging any decisions that we make or being involved  
19 as intervenors.  And if something is being done here  
20 that is ignoring the obvious intent of the legislature,  
21 I could easily see this recording being brought in as  
22 evidence in a case where people are under oath.

23           So I think it is important for us to have this  
24 discussion, and not necessarily just looking for some  
25 technicalities, but hopefully, following the obvious

1 intent of what the legislature had in mind here.

2 Commissioner Fedorchak, go ahead and take it  
3 away.

4 COMMISSIONER FEDORCHAK: Thank you, Randy.  
5 Thank you, Brian.

6 And thank you all for coming and agreeing to  
7 meet with us. We really appreciate you being willing to  
8 do that.

9 So we've had give and take through Lawrence  
10 mostly since 2016 on this project. I remember the first  
11 day I read it in the newspaper that this project was  
12 being considered. And the first thought that came to  
13 mind before I looked at the location was, wow, more  
14 refining.

15 Because, quite honestly, we can't lose sight of  
16 the fact that that has been a goal for North Dakota for  
17 many years. And politicians from both sides of the  
18 aisle have been questioning, why can't we have more  
19 refining in our state? We have this great product. We  
20 use it here. We need more refining. There was even  
21 proposals for a state-run refinery at one point. And so  
22 the fact that this project does that and provides 250  
23 jobs, 200, 250 jobs, it's a big deal for North Dakota.  
24 And I don't want to lose sight of that either in the  
25 conversation.

1           So we took note of it immediately and noticed  
2 the threshold that you were proposing was 55,000, and  
3 that's within our threshold. So in the early reports,  
4 we triggered conversations with you right away saying,  
5 FYI, that's jurisdictional to us so please plan to have  
6 a siting process as part of your plans develop. And  
7 then there was a give and take for the last couple of  
8 years back and forth between our office and our staff  
9 and yours, talking about, you know, the fact that you  
10 were going to come in under at first, etcetera,  
11 etcetera.

12           So it seemed time for us to sit down and just  
13 talk. Because we've been going back and forth for two  
14 years now and this is -- it's a big project in our  
15 state, it's a big deal, and we want to make sure that  
16 it's done right and with the -- as much as possible, the  
17 support of the citizens that live in North Dakota and  
18 operate and live in that area.

19           So appreciate the fact that you've already done  
20 a long hearing locally and you've gotten your  
21 conditional use permit. And I would assume that there  
22 was a lot of discussion there about the location. So I  
23 want to hear more about, through our conversation this  
24 morning, what your plans are to address some of the  
25 concerns.

1           And then I also want to just point out, Randy  
2 talked some about the law and the requirements of it. I  
3 think, and I try to keep this in mind on all of our  
4 siting cases, what are we doing this for? Why do we do  
5 this, have a siting hearing and make companies go  
6 through this process? And it's really well stated in  
7 the law, in the statement of policy on the front end of  
8 the siting law, and I just wanted to read two lines from  
9 that.

10           And this goes back, I think Patrick Fahn has  
11 been on staff as long as we've done siting. He probably  
12 helped create some of the laws and the rules governing  
13 it, so we have a lot of knowledge and experience in this  
14 area sitting right here at the table, and that can be  
15 very valuable to you all as well.

16           So the statement of policy reads, and this is  
17 49-22-02:

18           The legislative assembly finds that the  
19 construction of energy conversion facilities  
20 and transmission facilities affects the  
21 environment and the welfare of the citizens  
22 of this state. Therefore, it is necessary  
23 to ensure that the location, construction,  
24 and operation of energy conversion  
25 facilities and transmission facilities will

1           produce minimal adverse effects on the  
2           environment and upon the welfare of the  
3           citizens of this state by providing that no  
4           energy conversion facility or transmission  
5           facility shall be located, constructed, and  
6           operated within this state without a  
7           certificate of site compatibility or a route  
8           permit acquired pursuant to this chapter.

9           And then it defines the thresholds.

10           But clearly, the recognition is these facilities  
11           impact the citizens, and so we want to have a thoughtful  
12           process for where they're located and how they're  
13           constructed and operated. And so I ask you all to just  
14           keep that in mind, too, as we talk this morning about  
15           what we're all trying to accomplish here and how we can  
16           get to that -- best get to that goal.

17           So I have a series of questions and I'd be happy  
18           to start in there, but I thought it might be best if you  
19           all, if you had some opening comments or if you wanted  
20           to provide some general information first, and so I'd  
21           invite you to do that and then we can take the  
22           conversation from there.

23           MR. BENDER: Well, thank you, Mr. Chairman and  
24           members of the Commission. If I were to have made an  
25           opening statement, a lot of the things that you all

1 addressed would have been some of the things that I  
2 would have said as well.

3           Let me just add a little bit to what you all  
4 indicated this morning. This has been a dialogue that's  
5 been going back and forth between the Commission and  
6 Meridian for about two years. It started with telephone  
7 calls from Mr. Fahn to me. I responded to phone calls.  
8 We ultimately prepared a letter and sent it to the  
9 Commission, which was dated March -- excuse me, July 20,  
10 2016. Later on there was other things in the  
11 newspapers, probably misinformation, that resulted in  
12 another communication from Mr. Fahn to me. I responded  
13 to that.

14           But I agree with you, Commissioner Fedorchak, we  
15 can probably accomplish a lot more by having a dialogue  
16 here today than we can by sending letters back and  
17 forth. Because you prepare a letter and send it to  
18 Meridian. I respond. That raises more questions, and  
19 it just takes more time. So we welcome the opportunity  
20 to sit down with you today and talk about this.

21           And Mr. Prentice is going to make a brief  
22 opening remark, talk a little bit about the project,  
23 where it is here today. And we have many members of the  
24 Meridian staff who are here to respond to questions, but  
25 primarily, Mr. Prentice will be making the presentation.

1           COMMISSIONER FEDORCHAK: Great. Thank you,  
2 Lawrence.

3           COMMISSIONER CHRISTMANN: For all of you that  
4 aren't as familiar with our work in this hearing room as  
5 Mr. Bender, even though we're only a few feet apart,  
6 it's important to talk into the microphones because  
7 that's how the recording is picked up so, as well as for  
8 the broadcast. So please do take the time to talk into  
9 the microphones.

10          COMMISSIONER FEDORCHAK: I do also want to just  
11 reinforce what you were saying early on, Randy. This  
12 isn't an opportunity for public comment or public  
13 commentary of any sort, so I really am going to impress  
14 on the importance of the audience to not make any  
15 comments of any sort, size, whatever, to whatever  
16 information. I mean, this is really a dialogue between  
17 us. And there will be opportunity for the public  
18 through the Health Department processes to, at the very  
19 least, express their opinion through those processes and  
20 others, but this is not the time or the place for that.

21          COMMISSIONER CHRISTMANN: And if we end up with  
22 a siting case, there would be opportunity --

23          COMMISSIONER FEDORCHAK: Yep, absolutely.

24          COMMISSIONER CHRISTMANN: -- for public  
25 comments.

1           COMMISSIONER FEDORCHAK: Which would be great.

2           MR. PRENTICE: Thank you, Mr. President, members  
3 of the Commission.

4           Our mission here is to dispel a lot of the  
5 confusion about the project that's emerged. Most of  
6 that confusion is our fault. We're a small company  
7 producing a big project. And the amount of interest  
8 that this project has generated has been something we  
9 did not expect. We were not necessarily prepared to  
10 handle the publicity involved. Now that we have Adam  
11 onboard handling communications, we can tighten up our  
12 message and avoid some of these confusing press  
13 statements and so forth.

14           What I'd like to do is just describe briefly how  
15 the project came about and the current status of it, and  
16 then we can delve into your questions and be at your  
17 disposal.

18           The company was started about five years ago by  
19 a group of North Dakota expatriates under the name of  
20 the Davis Family Partnership. They were formed to  
21 re-establish some of the agricultural roots of the  
22 families represented here in North Dakota. And those  
23 are primarily members of the Davis and Palaniuk  
24 families.

25           While they were here taking care of that

1 business, they saw the oil boom going on and kind of  
2 fell in love with the idea of creating something that  
3 would help avoid what had resulted in all of those North  
4 Dakota people being out of state.

5 North Dakota goes through this every year. Sons  
6 and daughters have to go out of state after they finish  
7 school, find opportunity.

8 The initial impetus here was to create jobs. As  
9 you pointed out, we've done a good job so far of that.  
10 We could have -- we could have engineered a project that  
11 had fewer employees, but we've not tried to do that.  
12 We're going to employ about 200 people at the facility.  
13 Using figures from the State of Washington developed in  
14 studies of the Anacortes refineries, the job multiplier  
15 says about 12 to 1. So total employment including  
16 direct, indirect, and induced jobs can be as high as  
17 2,400 in that area.

18 The other thing we've done, it's been our policy  
19 never to go after any sort of tax benefits or breaks.  
20 We're going to pay our taxes. The tax base of Billings  
21 County is going to grow, well, a lot after we're in  
22 business. That's going to help with the prosperity in  
23 the region and the opportunities for people.

24 Now, when I was approached about becoming the  
25 CEO of the company, I had no real reason to do this. I

1 built power plants, refineries all over the world. And  
2 quite frankly, I'm not real proud of some of those  
3 facilities. Here was an opportunity for me to reinvent  
4 something in this business, and that's why I took this  
5 job. I was given a clear path to build the kind of  
6 refinery that I would like to see every day if I were in  
7 the area.

8 My mandate was to build the right refinery for  
9 this location, and I informed everybody that would not  
10 be cheap. This is going to be the cleanest refinery in  
11 the world when it's done. It's not going to be cheap.  
12 So that's what we decided to do.

13 When the location became an issue with regard to  
14 proximity to the park, there was -- that was primarily  
15 during the period when we were getting our use permit.  
16 The idea that being closer to the park would require  
17 that we be held to higher standards was interesting to  
18 us because it was an opportunity to make it even  
19 cleaner, which we did. We instituted design changes  
20 beginning of this year that resulted in air quality  
21 amendment, or permit amendment application that resulted  
22 in reductions in the emissions that we were requesting  
23 as part of our permit.

24 You know, our idea has not been to move the  
25 refinery someplace where we could pollute more. It's

1 been to build the cleanest refinery in this industry and  
2 change the industry as a result. So in fact, the  
3 location of the plant from our perspective is an  
4 opportunity to show what the industry can achieve. And  
5 I think that everybody is going to be pleased with the  
6 result.

7 In terms of capacity, in the press we've been  
8 all over the map, and that's probably my fault. Now  
9 it's going to be Adam's fault if it happens anymore.

10 But, you know, the original intent of the  
11 founder, when they saw what was happening at Dakota  
12 Prairie, was to kind of copy them, put a  
13 20,000-barrel-per-day topping plant in. In fact, they  
14 had initial discussions with Intech, and I -- that was  
15 one of the first things I did, is kill that.

16 Instead, the intent was to build a  
17 27,500-barrel-per-day hydroskimming plant which produces  
18 diesel, gasoline blending stock in residual oil. It's  
19 very low in sulfur. So with the new rules going into  
20 effect in 2020, that's a valuable material.

21 We did not really plan to go beyond that until  
22 we got into the air quality process and air quality  
23 groups where the division of the Department of Health  
24 wanted us to provide a permit application that addressed  
25 any possible expansion in the future.

1           I want to make a distinction here between  
2 possibilities and plans. Our plan has always been  
3 twenty-seven-five. In addressing the air quality  
4 requirements, it was an opportunity for us to explore  
5 whether or not we can meet these very stringent air  
6 quality requirements with a larger plant. That's been  
7 our process for the past year.

8           But the fact is, when we get this air quality  
9 permit, which I hope will be finalized sometime early  
10 next year, we are going to start construction of a  
11 27,500-barrel-per-day refinery and that's what we're  
12 going to operate. If we ever expand beyond that and get  
13 up to that threshold, you will see a siting application  
14 from us.

15           We went through a siting process with the County  
16 of Billings, and I thought they did a very thorough and  
17 proper job.

18           You know, there's always been, in the energy  
19 industry, a distinction between developing projects in  
20 the various states. I developed power plants and run  
21 them and operated them, for instance, in California.  
22 And it's always been the toughest in the country to get  
23 something done there. I thought the air quality process  
24 here in North Dakota is every bit as tough as  
25 California, and the people in that division are just as

1 knowledgeable.

2 I don't think that we would have had a more  
3 difficult time in the conditional use permit process in  
4 any other county in the country. We had to work very  
5 hard to satisfy the county as to what we were doing  
6 there. And Dan's company is the one that was handling  
7 that for us.

8 So, you know, we're on the record. Our intent  
9 is clear. We want to get our permit from the Air  
10 Quality Division from the Department of Health so that  
11 we can start construction of our refinery at  
12 twenty-seven-five. That's going to be up and operating  
13 for years before we decide what to do next.

14 There are many modifications that we could do to  
15 the plant to increase profitability that would not  
16 involve an increase in capacity. Part of getting used  
17 to this market appears to learn some of the nuances.  
18 You know, the residual oil that comes out of this  
19 refinery is good to feed stock for lubricating oils. So  
20 we're going to explore that. But until we get  
21 twenty-seven-five in operation, we don't have a basis  
22 for making any further blends.

23 COMMISSIONER FEDORCHAK: So can you tell us some  
24 -- tell us what you have incorporated into this project  
25 to make it a facility that, in your words, is something

1 that you'd want to drive by and look at and see? Like  
2 what is special about this that makes it unlike every  
3 refinery I've ever been by, which is something I want to  
4 get by as quickly as possible. Because they aren't very  
5 pretty to look at.

6 MR. PRENTICE: I know. And, you know, consider  
7 the source. People who build and operate refineries are  
8 inordinately proud of them. I mean, you see them at  
9 night. They look like the most densely-lighted  
10 Christmas tree you'd ever see in your life.

11 We've had to get used to a different way of  
12 looking at that. First of all, we're putting this  
13 facility in the middle of a very large piece of property  
14 so that we can put a buffer around it, including, you  
15 know, natural buffering including trees and so forth.  
16 We're working with both local universities to make that  
17 happen. We've already ensured that you cannot see or  
18 smell or hear the refinery from the park. We --

19 COMMISSIONER FEDORCHAK: How did you ensure --  
20 how have you ensured that, Bill?

21 MR. PRENTICE: Well, the big thing was visual  
22 impact and the idea that you might be able to see our  
23 highest tower from the park.

24 This occurred about a week or so before we had  
25 the final hearing on our use permit. And Dan's company

1 had surveyors go out to the site. And first we tried a  
2 balloon but it was too windy, so we had to anchor a kite  
3 that was bigger than our biggest vessel. It was about  
4 13 feet wide. And our biggest vessel is going to be  
5 130 feet tall and 10 feet wide.

6 So we anchored that kite at the height of the  
7 top of that tower in exactly the same location. And we  
8 had a bunch of people up on Buck Hill at the park  
9 looking for it and you can't see it. It had already  
10 been demonstrated through line-of-sight studies, you  
11 know, on an engineering basis that it was below the  
12 horizon from the park, but, you know, you have to see it  
13 to believe it. So we did that.

14 COMMISSIONER FEDORCHAK: And is that at night  
15 too? The lights, I would assume, would be visible at  
16 night.

17 MR. PRENTICE: Well, you probably will be able  
18 to see the -- a glow from the red FAA required lights,  
19 but the lighting concept on this refinery has been --  
20 well, we trashed everything from the industry standard  
21 practices. If operators can turn off the lights in a  
22 bathroom when they're done, we can turn off the light on  
23 a crude tower. If there's nothing going on there,  
24 there's no reason for that Christmas tree effect to be  
25 going on.

1           So what lights have to be on all the time for  
2 OSHA requirements will be downward directed, you know,  
3 lights that we hope nobody is just going to see. You'll  
4 be able to see the light in the refinery probably  
5 driving by on I-94.

6           The other thing that came up was concerns about  
7 cooling tower drift. People who see local refineries, I  
8 mean cooling towers are a part of almost every process  
9 out there. So we went to air cooling. There's only one  
10 cooling tower about the same size as the one on the roof  
11 of this building, and, you know, it's been our estimate  
12 that you're going to be able to see that maybe what,  
13 20 days a year, something like that.

14           MR. HEDRINGTON: I think it's -- for  
15 clarification, I think it's like -- there's a potential  
16 to see it -- I'd like to make a distinction on that.  
17 For the plume itself for the cooling tower, which is  
18 just water vapor, there's a potential to see that plume,  
19 its potential, 24 feet above the horizon seven and a  
20 half miles away, and so, I mean, virtually invisible.  
21 And that only occurs at, like, 30 times a year. And in  
22 reality, it's only going to occur maybe in a morning on  
23 a very cold day when that actually -- and low wind  
24 conditions where it's actually going to rise to that  
25 level.

1           COMMISSIONER FEDORCHAK:  Have you had any of the  
2 park folks, the park leadership, out to see your kite  
3 demonstration and --

4           MR. PRENTICE:  Yes.

5           COMMISSIONER FEDORCHAK:  -- all of this  
6 material?  And what's been their response?

7           MR. PRENTICE:  I should let Dan answer that.  He  
8 conducted the test and was at Buck Hill when it was  
9 undertaken.

10          MR. HEDRINGTON:  Right.  And just for the  
11 Commission's information as well, we did full modeling  
12 of that as well.  We did line-of-sight diagrams and  
13 exhibits.  And we showed all that to the county  
14 commissioners and stuff as well.  And then there was  
15 some discussion, well, you're positively going to see it  
16 anyway.  So that's why we went and did the kite  
17 demonstration from the location that it was -- that park  
18 officials thought you might -- we might be able to see  
19 it.

20          The park was invited.  I don't know that the  
21 leaders came, but park officials were definitely there.  
22 So some of the rangers and things like that were up at  
23 the site reviewing it, along with county personnel,  
24 county -- a lot of county people actually came up to  
25 review it as well because we had expressed, you know,

1 what our expectations were at county board meetings, and  
2 so they came out to confirm it. And it all went very  
3 well.

4 UNIDENTIFIED SPEAKER: That was the 11-foot  
5 kite, I believe --

6 MR. HEDRINGTON: Yeah.

7 UNIDENTIFIED SPEAKER: -- 150 feet above the  
8 ground?

9 MR. HEDRINGTON: That's correct, yeah.

10 COMMISSIONER FEDORCHAK: How many miles are you  
11 from the nearest border of the park, and then also from  
12 the interstate? Because I've seen a little bit of  
13 information of that in the press but not a lot of  
14 specifics and not a lot of clarity.

15 MR. PRENTICE: Okay. We've handed out this map  
16 as part of that two-pager that Lawrence gave you. The  
17 refinery site is three and a half miles from the nearest  
18 corner of the park. And I think we're less than a mile  
19 from the interstate. On that map, that little yellow  
20 site on the Burlington is the site that we're locating  
21 the refinery at.

22 COMMISSIONER FEDORCHAK: And what will the  
23 viewshed be from the interstate? Will you be screening  
24 that with trees and -- what's the long-term prognosis  
25 for that?

1           MR. PRENTICE: We're going to try to disguise  
2 the project with trees and agricultural buffer from both  
3 the interstate and from the city of Belfield itself.  
4 Our objective is to not be able to see it at all.

5           COMMISSIONER CHRISTMANN: You said the nearest  
6 corner of the yellow refinery site to the nearest corner  
7 of the park is three miles?

8           MR. PRENTICE: Three and a half.

9           COMMISSIONER CHRISTMANN: Three and a half. How  
10 far is it from where the railroad is the farthest to the  
11 north, from there to the interstate?

12          MR. PRENTICE: I -- right where that arrow  
13 points to the yellow, I think that's about a mile, maybe  
14 a little less, to the property line. It's going to be a  
15 little over a mile to the actual, what we call the  
16 battery limits of the refinery where the processing unit  
17 is.

18          COMMISSIONER CHRISTMANN: What's the kind of  
19 white rectangle within the area of the refinery?

20          MR. PRENTICE: That's another piece of property  
21 that we've since optioned.

22          COMMISSIONER CHRISTMANN: So does the yellow, is  
23 that the -- you said something about, like, a tree  
24 buffer and such.

25          MR. PRENTICE: Yeah.

1           COMMISSIONER CHRISTMANN:  Would the tree buffer  
2 be within this yellow area, or is the yellow area the  
3 refinery site itself and then the tree buffer would be  
4 around that?

5           MR. PRENTICE:  The buffer we're talking about  
6 would be on the northern edge of the property along the  
7 tracks, the other side of the railroad tracks from the  
8 refinery, and all the way down the eastern boundary.

9           COMMISSIONER FEDORCHAK:  Okay.  Tell me about  
10 other sites that you considered.

11           MR. PRENTICE:  Before I came onboard the  
12 company, the founder of the company, Tom Williams, had  
13 consulted with a number of people, including some people  
14 from Burlington, and considered sites as far away as  
15 South Heart where there was previous consideration of a  
16 coal gasification facility.

17           Tom Williams settled on this particular site  
18 because of the confluence of 85, I-94, the railroad, and  
19 crude gathering systems in that area because of the  
20 Fryburg facility.  In all respects, except for the  
21 proximity of the park, it's an ideal site.

22           COMMISSIONER FEDORCHAK:  So you can still get a  
23 lot of those factors if you were on the other side of  
24 Belfield except, perhaps, with the gathering, the  
25 pipelines?  Is that the big driver to this site?

1 MR. PRENTICE: To get the same advantages, you'd  
2 probably have to go as far as Dickinson or beyond.

3 COMMISSIONER FEDORCHAK: Are there advantages to  
4 being there just because you're closer to markets and --  
5 it seems like there would be some natural advantages,  
6 you're closer to more workers, stronger workforce.  
7 There's got to be other advantages that a Dickinson site  
8 might offer that don't exist out there so close to the  
9 park.

10 MR. PRENTICE: When I was presented with this  
11 opportunity and took a look at the proximity to the  
12 park, again, that did not seem a detriment given the  
13 fact that we could engineer it to meet those  
14 requirements. Everything else was overwhelmingly  
15 positive.

16 COMMISSIONER FEDORCHAK: So if you were  
17 contemplating something this close to, say, Yellowstone  
18 or Grand Canyon, would that be a bigger issue, do you  
19 think, or you'd still feel just as confident that this  
20 -- the air quality, the light mitigation, all these  
21 factors can be addressed to make it basically  
22 undetectable from those locations?

23 MR. PRENTICE: We have no current intent to go  
24 elsewhere like that, but the same considerations would  
25 enter into it if there were other reasons to be there.

1           See, the industry has gotten used to just  
2 saying, okay, we're bad polluters, put us someplace  
3 where we can do what we do and not bother anybody. And  
4 I am not going to do that. This refinery is going to be  
5 one you should be able to put anywhere.

6           COMMISSIONER FEDORCHAK: Well, and I really  
7 appreciate your commitment to the air quality issues and  
8 to setting a higher standard for the refining industry  
9 as a whole. I think we could have a long conversation  
10 about industrial development and having certain  
11 corridors for it and where those ought to be.

12           I mean, I think that there's a lot to be said  
13 for trying to cluster those in locations where there's  
14 similar type development occurring. I'm not sure this  
15 site meets that standard, although there is that rail  
16 facility there. I haven't seen that rail facility so I  
17 don't know how visible that is.

18           MR. PRENTICE: It's probably more visible --

19           COMMISSIONER FEDORCHAK: Noisy or --

20           MR. PRENTICE: -- from the freeway anyway than  
21 our plant will be.

22           And we did have this discussion at length with  
23 the county and, you know, went through all the reasons  
24 for this location. And I think we resolved that issue  
25 to their satisfaction anyway.

1           COMMISSIONER FEDORCHAK: Was there a lot of  
2 input at the local level from --

3           MR. PRENTICE: Yes.

4           COMMISSIONER FEDORCHAK: -- from citizens?

5           MR. PRENTICE: Yes. We had -- we had a very  
6 well-attended meeting of the rezoning and planning  
7 commission in Billings County. And then what, three  
8 separate hearings before the full commission at Billings  
9 County.

10          COMMISSIONER CHRISTMANN: What is the county  
11 line there? Is that like a gravel county road or is it  
12 a -- is there nothing there except a section line?

13          UNIDENTIFIED SPEAKER: Nothing there.

14          COMMISSIONER CHRISTMANN: Just for the  
15 recording, it was indicated from someone off mic that  
16 there's nothing there.

17          MR. PRENTICE: No, the county line has no  
18 physical presence other than just on the map.

19          COMMISSIONER CHRISTMANN: Will that need to be  
20 upgraded for this? It doesn't have to do with our  
21 issues here, but I'm just curious.

22          MR. PRENTICE: As part of the permit application  
23 and discussions, we agreed to do a number of things with  
24 local roads and including improving any of the roads  
25 that we'll be using for our traffic, so --

1           COMMISSIONER KROSHUS: Do you have any -- I'm  
2           sorry.

3           COMMISSIONER CHRISTMANN: If we ultimately, if  
4           this were built and then expanded and had a siting case,  
5           in any of our siting cases, regardless of how clean or  
6           new and innovatively someone is doing something, there  
7           are, in the law, avoidance and exclusion areas. The  
8           avoidance areas are places where we may or may not be  
9           able to issue a certificate depending on other  
10          circumstances. Exclusion areas are just that, we can't  
11          approve those.

12          Are those avoidance or exclusion issues within  
13          those distances that would preclude a certificate if you  
14          were applying for one?

15          MR. PRENTICE: I'm not aware of any. The park  
16          itself would, of course, be an exclusion zone. But no,  
17          I -- we have not reviewed that.

18          COMMISSIONER CHRISTMANN: There aren't  
19          residences at Fryburg or in the surrounding area that  
20          are too close or anything like that?

21          MR. KESSEL: I might talk about that a little  
22          bit. I'm the only resident that's near there, and I  
23          don't plan on moving.

24          COMMISSIONER FEDORCHAK: It looked like you  
25          wanted to say something earlier too, Greg.

1           MR. KESSEL: Well, a couple things on the county  
2 thing. I've been a Billings County resident my whole  
3 life and I know what we need. We need this in our  
4 county for tax revenue. We're in a county with  
5 fifty percent federal ground, Park Service, Forest  
6 Service, and what have you. These are the people that  
7 want services that come to visit and want all the  
8 emergency services and they want everything there, and  
9 our taxes keep going up. And in Billings County, we do  
10 not have the population. We have the city of Medora.  
11 We don't have nothing to regenerate them revenues coming  
12 back. And this is something that's going to be a shot  
13 in the arm for Billings County.

14           I'm hoping -- I have four children at home.  
15 They're high-paying jobs. I'm hoping that we can bring  
16 these jobs to the kids. And that's what we need for our  
17 young people. We need to keep them back at home. We  
18 don't need them traveling off. The same reason the  
19 Davis family went ahead and came back. They left the  
20 country. This is an opportunity for us to keep our  
21 young people back.

22           COMMISSIONER FEDORCHAK: So what's your thoughts  
23 on how the locals feel about it after the conditional  
24 use permit and that process, Greg? Did a lot of the  
25 issues get satisfied?

1           MR. KESSEL: As a whole, the majority of the  
2 locals are all for this. They just got their taxes  
3 again. They seen what their taxes did. They know what  
4 this can do for them. Right now they're struggling with  
5 adding onto their school. They don't know where the  
6 revenues are coming from. They need to do that. We  
7 need this in our county. We need that revenue. And we  
8 need to create the jobs for the people that are leaving.

9           And yes, the park is important to us in our  
10 county. I mean, I lived there my whole life. That's  
11 always been important to me. And that is a lot of the  
12 reason the air quality thing, and this is the kind of  
13 project that is good. It's good for the community.  
14 It's good for the surrounding area. It's not -- you  
15 know, I've been in agriculture my whole life, but the  
16 drivers of the state are energy and ag. And these are  
17 the kind of projects that we need in our state.

18           COMMISSIONER FEDORCHAK: I'm guessing that at  
19 first folks were more suspicious of the project or maybe  
20 a little more leery, and then as the discussions  
21 occurred on the local level and they learned more, they  
22 may have become more comfortable with it. Would that be  
23 a fair --

24           MR. KESSEL: That's a fair assessment. I mean,  
25 you know, when this project started, the reluctance that

1 someone can come in and build something with class 1 air  
2 quality standards, I mean that was -- it sounded like a  
3 pipe dream, like it couldn't happen. Take a look at --  
4 we haven't built a refinery in 45 years. How did your  
5 cell phone work 45 years ago? You know, we came so far  
6 with technology, you've got to take a look at things  
7 like this.

8 COMMISSIONER FEDORCHAK: And I've been in  
9 conversation with the Health Department, Dave Glatt, and  
10 I know there's some Health Department folks here today,  
11 this morning.

12 So I know that your permit that you have is a  
13 construction permit, and that just allows you to  
14 construct it. Then you still have to prove that you can  
15 actually operate it and meet the criteria for that  
16 facility, which I think is maybe ten times more  
17 stringent than a facility such as Tesoro right outside  
18 just because of its proximity --

19 MR. PRENTICE: Yes.

20 COMMISSIONER FEDORCHAK: -- to the park. So  
21 talk a little bit about that. I mean, how confident are  
22 you in this technology? Because from what I understand  
23 from my conversation with Dave, it's not new technology  
24 but it's applied in a way that hasn't been done before.

25 MR. PRENTICE: Well, in order to justify getting

1 a permit using this technology, you have to show that  
2 every single aspect of it has been used commercially  
3 someplace else. So none of it is R&D.

4 What is unique here is this is the first project  
5 in the country, in the world, where every piece of  
6 applicable technology is going to be applied  
7 comprehensively throughout the project, and that  
8 includes everything from optical sensing for leaks.

9 And I don't know if anybody who's not been in a  
10 refinery understands how important that is. Because  
11 usually refineries I've been in, you wait until there's  
12 a combustible puddle of something before you figure out  
13 that you have a leak and a problem. And sometimes that  
14 happens when you get a fire. It's a matter of bad  
15 engineering, bad management, bad safety. We don't want  
16 that. So we have optical sensing. Whenever anything  
17 starts to leak, you're going to know it and then you go  
18 fix it.

19 You know, it would take a couple of hours, I  
20 mean if you access the data base on the Air Quality  
21 Division's website, there are thousands of pages of  
22 documentation as to what we've done to make this clean  
23 and none of it is R&D. So I'm comfortable we can do  
24 this.

25 COMMISSIONER FEDORCHAK: So you put it all

1 together, but have you proven this in another location  
2 that this actually works the way you're proposing it at  
3 this site?

4 MR. PRENTICE: Every single aspect that we are  
5 proposing to build has been proven, yes.

6 COMMISSIONER FEDORCHAK: Okay. The engineer is  
7 agreeing.

8 MR. HEDRINGTON: Yes, the team -- the team has  
9 actually been thrilled to work on the project.  
10 Mr. Prentice and his team, his leadership team, have  
11 given us direction, not only just the ability to  
12 incorporate, you know, innovative things, but cost has  
13 never been the critical element on it. It's been try to  
14 improve visibility, trying to improve reduction in  
15 emissions, trying to make this as, I'm going to use the  
16 term "green" as possible.

17 And we've been working with the university of --  
18 you know, UND and NDSU for some of the screening things  
19 you had asked about earlier, looking at berms and  
20 vegetation and everything that -- that is being  
21 incorporated into this has been, you know, completely at  
22 the direction of Mr. Prentice and his leadership team.  
23 It's been absolutely a wonderful project to work on.

24 COMMISSIONER FEDORCHAK: And if you build it and  
25 can't meet the standards, it doesn't operate, from what

1 I understand of the permit, or you'd have to apply for  
2 some sort of a variance.

3 MR. PRENTICE: We have to fix it if it didn't  
4 operate the way it's designed, yes. We have had to go  
5 through that not only for the purpose of the permit but  
6 also in negotiating arrangements for design and  
7 construction of the plant. Because there have to be  
8 ironclad guarantees from our contractors that they can  
9 do this too. That's all backed up by financial  
10 instruments. And the funding is not there if you don't  
11 prove this can happen.

12 COMMISSIONER FEDORCHAK: You still have your --  
13 some water permits, wastewater and source water. Tell  
14 me the status of those permits and the timeline there.

15 MR. PRENTICE: Well, just briefly then. Dan's  
16 the best one to talk about the water authorization or  
17 allocation permit. But the idea here is building a  
18 plant in an area where water is as precious. It's a  
19 zero discharge facility. The water is going to get used  
20 and reused and so forth. We even collect rainwater for  
21 use as part of that resource base. Now, we've talked  
22 about using wastewater from local communities as part of  
23 our water source.

24 In making decisions on where to have our  
25 mainstay water supply, if you will, the decision was

1 made to apply for a permit to take water out of the  
2 Dakota Aquifer, which is very highly saline. It's, in  
3 some areas that we've seen test reports, it's worse than  
4 seawater. So we're also effectively building a  
5 desalination plant at the refinery to handle that water.

6 So, you know, that application went out for a  
7 requested quantity. That was based on the fact that we  
8 don't understand that aquifer very well yet. So we were  
9 scaled back on the amounts that we were going to be able  
10 to utilize out of Dakota, but we're just going to have  
11 to engineer around that. The status of that permit, I  
12 think we're --

13 Go ahead, Dan.

14 MR. HEDRINGTON: The status is we had gone  
15 through the -- and I'm sure you guys are completely  
16 familiar with this -- all the public hearing process  
17 comment period. The Department acknowledged their  
18 intent to issue and a -- it's being contested and a  
19 adjudicative hearing is being requested. The state  
20 engineer is going to allow that. An administrative law  
21 judge is reviewing it and we're still in that process.  
22 We're expecting activity again in January to start  
23 coming up again.

24 COMMISSIONER KROSHUS: Can you clarify for me,  
25 are you at 645 acre feet of water per year or ninety

1 percent of that number?

2 MR. HEDRINGTON: So I apologize for not having  
3 the specific number on the top of my head. What we  
4 applied for, we applied for the overall volume that we  
5 thought was necessary based on our assumptions of that  
6 aquifer itself. We won't know complete details until we  
7 actually drill the hole, draw it up, and find out how  
8 brackish it is or how saline it is. So we have some  
9 flexibility there.

10 We're going to have to, like Mr. Prentice said,  
11 we're going to have to design the cleaning system around  
12 what we encounter. But I believe that the -- what was  
13 requested, it was a ten percent reduction that was being  
14 offered, so it was -- I believe it was 400 gallons a  
15 minute, knocked down -- it essentially knocked down to  
16 360, something like that.

17 COMMISSIONER FEDORCHAK: And then the wastewater  
18 permit, are those tied together?

19 MR. HEDRINGTON: They're not tied. That's still  
20 in the process. We'll be going through that entire  
21 process yet. Some of it boils down to we're not sure  
22 how much water we're going to have to get rid of. So  
23 what happens, essentially, is that you clean up that  
24 water and part of your waste is just a more concentrated  
25 brine.

1           There are multiple ways to get rid of that. We  
2 can do evaporation ponds, things like that, but there's  
3 also potentials for injection or utilizing existing  
4 injection wells out there. And all of those are still  
5 being discussed and reviewed. And once we actually  
6 drill the hole, see that water, we'll understand how  
7 much we're going to have, all that kind of stuff. So  
8 it's still pending.

9           COMMISSIONER CHRISTMANN: What's the depth of  
10 that aquifer?

11           MR. HEDRINGTON: Approximately 5,000 feet. So  
12 it's deep. And actually, some of the drill companies  
13 that we had talked to initially were a little bit  
14 concerned about going that deep just because they didn't  
15 have the capability, but we found plenty that can, so --

16           Yeah, it's -- it's an exciting project. We're  
17 doing a lot of innovative things on this project in  
18 order to be less impactful to the locals. We've been  
19 directed from day one to not utilize any of the existing  
20 potable aquifers. So there's a lot of really good  
21 things going on in this project.

22           COMMISSIONER FEDORCHAK: What do you estimate  
23 for a time frame then? It sounds like that's -- you  
24 still got a fair amount of work to do on the water side  
25 of things. Is that a year out before you'd even be able

1 to finish that permitting process and then move forward  
2 after that if everything goes well on the air quality  
3 side? Or what are you thinking in terms of timeline for  
4 construction?

5 MR. PRENTICE: Well, with weather like this, I  
6 mean we could be in construction this winter if we had  
7 our air quality permit.

8 COMMISSIONER FEDORCHAK: You can construct  
9 without the water stuff done?

10 MR. HEDRINGTON: Yeah. Remember, we have -- we  
11 have multiple options as far as for water. So we -- we  
12 can't go in and start earthwork. We can start some of  
13 the roadway improvements. We can do storm water  
14 collection areas, things like that, that can be started  
15 in advance.

16 COMMISSIONER CHRISTMANN: Weather might look a  
17 whole lot different by this time tomorrow.

18 (Laughter)

19 MR. PRENTICE: I know. But it looks good today.

20 COMMISSIONER FEDORCHAK: Says the lifelong  
21 rancher.

22 MR. PRENTICE: You mentioned overall timeline.  
23 We start construction as soon as we obtain the permit.  
24 We could be in operation by, let's say, first quarter of  
25 2019 at this -- at this schedule.

1           COMMISSIONER FEDORCHAK:  And that assumes you  
2 complete the water permits, or how do the water permits  
3 factor into that timeline?

4           MR. PRENTICE:  Well, we need that water for  
5 operation.  Let's say we were not able to use Dakota  
6 Aquifer at all for whatever reason, whether it's permits  
7 or technical.  We'll engineer around it and find other  
8 sources.

9           COMMISSIONER FEDORCHAK:  And are you looking at  
10 an injection well for waste at all, wastewater?

11          MR. PRENTICE:  If what we end up with is a  
12 situation where we're taking aquifer water in,  
13 desalinating it, then you end up with a brine-rich water  
14 stream that we understand is okay to reinject in that  
15 aquifer.  It's the aquifer that's used for reinjection  
16 wells right now.  So that's what we've been instructed  
17 would be the proper course.  I'm not sure that's what  
18 we're going to do, though.

19          COMMISSIONER FEDORCHAK:  Then would you be  
20 reusing that water too?  You'd be injecting it in there  
21 and potentially reusing that same water in that same  
22 area?

23          MR. PRENTICE:  Well, one of the things that I'd  
24 like to figure out, first of all, is what is in that  
25 water.  You know, you're drilling down to a level that

1 would be considered a good oil well depth in some areas.  
2 You're mining water. Well, there's minerals in it.  
3 What are they? We've had discussions with some of the  
4 oil service firms about taking a look at some of those  
5 chemicals. So I'm not sure yet. There might be more  
6 jobs involved in processing that wastewater.

7           COMMISSIONER FEDORCHAK: You mentioned a few  
8 minutes ago in conversation in response to one of  
9 Randy's questions about you hadn't really looked at the  
10 exclusion areas and avoidance areas on this site. And  
11 so that is an area that gives me a little concern  
12 because that's precisely why, when a facility is looking  
13 to grow beyond and into the jurisdictional area where we  
14 have siting authority and it is preexisting and you  
15 haven't looked at what those factors are that we  
16 consider, then you've probably already impacted them.

17           So, you know, that's why -- and I want to just  
18 throw this out. Companies like Basin Electric who have  
19 operated in North Dakota for a long, long time, when  
20 they think that they're going to be jurisdictional at  
21 some point, they site on the front end and then they're  
22 free to go. They know they've looked at everything,  
23 there's been the public opportunity to comment and  
24 learn, and everything is done from the front end to  
25 mitigate impacts to the things that state leaders have

1 laid out need to be protected.

2 So have you thought about taking that approach?  
3 And if not, why not?

4 MR. PRENTICE: Well, in terms of the exclusion  
5 areas, when I say we haven't looked at it, we haven't  
6 formally looked at it. We went through this process for  
7 the county and, you know, we reviewed that list of  
8 exclusion areas and zones and didn't think anything was  
9 applicable. But again, at that time, our feeling was we  
10 were in a siting proceeding at the county and so that's  
11 where we dealt with those issues.

12 COMMISSIONER CHRISTMANN: I guess I would just  
13 urge you to be using caution because their siting  
14 proceeding might not go by the law that we are required  
15 to follow in our siting proceeding. And Greg had  
16 mentioned being the one that lives close by. Let's say  
17 as you are proposing it today you built and then later  
18 decided to do an expansion that crossed the  
19 jurisdictional threshold and you got above that, and I  
20 don't know how close closest is, but I don't -- as I  
21 recall, looking at our attorney, I don't believe you can  
22 give a waiver if you're closer than 500 feet from a  
23 residence.

24 MR. PRENTICE: We went through that process at  
25 the county level, yeah.

1           COMMISSIONER CHRISTMANN: So we just -- there  
2 are some things that maybe a county was able to waive in  
3 approving something. We can't necessarily waive things,  
4 whether we want to or not. So I guess I'm curious if  
5 that residence is within 500 feet or not, but --

6           MR. PRENTICE: Well, the whole issue of  
7 residences and where we could put the processing units  
8 themselves in comparison to all that, I mean that was a  
9 three-month dialogue on that with the county.

10          MR. HEDRINGTON: Right. And remember, we did go  
11 through and do archaeologics and cultural and endangered  
12 species studies and stuff as well on the property. So  
13 the amount of research has been extensive. And, yeah, I  
14 mean I'm very confident that we're in a good position  
15 so --

16          COMMISSIONER CHRISTMANN: I'll just throw this  
17 out. You know, we've had pipeline cases where someone  
18 wanted to either expand the volume of a pipeline or  
19 change from a gathering pipeline to a transmission  
20 pipeline, and thus, they became jurisdictional. And so  
21 they were laid in there. And there was a neighbor  
22 across the road that was too close, and whether it was  
23 because they knew they had bargaining power or were more  
24 worried about what was going to be there than what had  
25 always been there, would not deal with them and they

1 ended up having to completely reroute the pipeline.

2 And so it's good to look ahead at these things  
3 for everyone's best interests.

4 MR. PRENTICE: We're well aware of the  
5 negotiating position of nearby landowners.

6 COMMISSIONER FEDORCHAK: Did the county require  
7 any bonding or any sort of financial assurances should  
8 you have to get to the point where you've constructed  
9 it, can't meet the standards, and need to reclaim that  
10 area?

11 MR. PRENTICE: Yeah, there is a bonding  
12 requirement before we start actual earthwork, yes.

13 COMMISSIONER FEDORCHAK: Okay. And then I've  
14 had a lot of letters from some folks in the area that  
15 are concerned about the truck traffic and those issues.  
16 So talk a little bit about that and what you view  
17 immediately and at what point you think those numbers  
18 might be reduced by the use of pipelines and the rail  
19 system for transport.

20 MR. PRENTICE: Well, a truck is the least  
21 economical and probably least safe way to move  
22 hydrocarbons. We do have local markets that cannot be  
23 reached any other way so we're stuck with that. But in  
24 terms of crude delivery, it will all be by pipeline.  
25 Eventually, probably well over half of our products will

1 be going out by pipeline. We're going to drive truck as  
2 far down as we can.

3 We're also on rail. And not only are we close  
4 to another rail facility, but we're going to have our  
5 own rail sidings and we'll be shipping out not unit  
6 trains but multi-car shipments of rail.

7 So yeah, truck is not preferable except for  
8 local uses.

9 COMMISSIONER FEDORCHAK: So when you talk about  
10 half your -- or for local uses, do you mean finished  
11 product or your --

12 MR. PRENTICE: Yes.

13 COMMISSIONER FEDORCHAK: -- product in? Will  
14 all the crude that you're getting be delivered onsite by  
15 pipeline?

16 MR. PRENTICE: Yes, Ma'am.

17 COMMISSIONER FEDORCHAK: So all your source will  
18 be piped?

19 MR. PRENTICE: Yes.

20 COMMISSIONER FEDORCHAK: So some of your  
21 finished product will be trucked.

22 MR. PRENTICE: Yes.

23 COMMISSIONER FEDORCHAK: But you anticipate, did  
24 you say half out -- half of it will be out by -- is it  
25 rail or do you have pipelines to distribute the finished

1 product to --

2 MR. PRENTICE: It depends. We're right now  
3 trying to finalize some of these off-take discussions.  
4 Anything that goes to the east or to the south or to the  
5 west, probably by rail. Everything that would go up and  
6 down 85 and out on 94 would be by truck. Again, we're  
7 trying to get that number as low as we can.

8 COMMISSIONER FEDORCHAK: Yeah, because you're  
9 not near any line that -- pipeline that transports --

10 MR. PRENTICE: No.

11 COMMISSIONER FEDORCHAK: -- refined gasoline.

12 MR. PRENTICE: Yeah. Once we -- once we get  
13 into operation, we're going to try to see about where  
14 our firmer demand is setting up and whether or not a  
15 pipeline solution is best for that, particularly to the  
16 east.

17 COMMISSIONER FEDORCHAK: So tell us a little bit  
18 about your market. Where is it?

19 When the Dickinson refinery was being developed,  
20 they anticipated that initially to have a really strong  
21 local market for the diesel and then plans changed quite  
22 a bit.

23 MR. PRENTICE: Yes.

24 COMMISSIONER FEDORCHAK: So what are you  
25 anticipating?

1           MR. PRENTICE: Diesel and gasoline still have a  
2 strong demand locally. The residual oil is probably  
3 going to go out to the east, to the Great Lakes. It's a  
4 low sulfur marine fuel. Again, some of it might go up  
5 to Canada.

6           Some of the other things we're looking at is who  
7 are we going to be doing business with locally who want  
8 to do their own blending, you know, for gasohol and also  
9 biodiesel. So again, these are negotiations in progress  
10 now.

11           COMMISSIONER KROSHUS: So generally speaking, in  
12 thirds, a third diesel, a third gasoline, a third low  
13 sulfur?

14           MR. PRENTICE: Yes. Yeah.

15           COMMISSIONER CHRISTMANN: So now I'm confused on  
16 that. As I recall from dealing with what was in the  
17 Tesoro refinery here by town, it's not a three-way  
18 division. There's probably a dozen products: Tar for  
19 asphalt and paraffin wax and all kinds of things.

20           The Dickinson plant, my understanding, has  
21 always been they -- it's probably not quite this --  
22 basically, take the diesel fuel off and send the rest  
23 out as still unrefined.

24           MR. PRENTICE: Right.

25           COMMISSIONER CHRISTMANN: Is this -- is your

1 proposal to do a full refining job like is done here at  
2 Mandan and produce this whole array of products that can  
3 be made out of a barrel of oil, or to just do gas and  
4 diesel and then send everything else out in one bulk  
5 product?

6 MR. PRENTICE: Again, three different  
7 refineries, totally different processes, totally  
8 different time frames.

9 The Dickinson Dakota Prairie, as you say, was a  
10 topping unit. They were going to pull diesel off, sell  
11 to the local drilling community, and then the rest of  
12 what they produced would go to other refineries.

13 Mandan has been there a while. They don't  
14 typically use all Bakken crude. They use other types of  
15 crude too. So they have to be more complicated in order  
16 to get their product streams out. And they've grown  
17 over time to meet other market requirements. So that's  
18 an organic response to the market that they faced.

19 What we've done is design what is probably the  
20 smallest possible full conversion refinery that you can  
21 build. And, you know, part of that process is getting  
22 the low sulfur marine diesel out. And, you know, part  
23 of that later on might become other higher value  
24 products. We haven't talked about other things like,  
25 you know, liquified natural gas. We get small amounts

1 of those materials.

2 So yeah, one-third, one-third, one-third is the  
3 gross division, but there are another three or four  
4 products in there that we just haven't defined yet.

5 COMMISSIONER CHRISTMANN: And we talked quite a  
6 bit just on the environmental side of things about  
7 visual and some on the water, but there's also noise  
8 too. And you said this would be quieter. Why is it  
9 quieter? Is it just because you're a ways away from any  
10 residences or --

11 MR. PRENTICE: Well, there's that, the --

12 COMMISSIONER CHRISTMANN: Engineering --

13 MR. PRENTICE: -- buffer. You know, just the  
14 control instrumentation, you're not -- I mean, some of  
15 the old pneumatic controls were like the air brakes on a  
16 truck. You know, you can hear valves going off all over  
17 a plant like that. We're not doing that.

18 But, you know, it's just -- some areas will be  
19 enclosed that would otherwise be open and noisy. I  
20 mean, that makes sense when you're in a cold climate,  
21 that guys working on stuff can stay warmer while they're  
22 doing that. So there are multiple reasons for doing  
23 that, but the result is a quieter plant.

24 COMMISSIONER FEDORCHAK: Have you looked at --  
25 did you look at locating, or would it be feasible -- and

1 Greg, no offense because I know your land is where your  
2 land is -- but did you look at even further south in  
3 Billings County to get you further away from the park?  
4 I mean, you're going through a lot of expensive measures  
5 to meet the standards required by being so close to the  
6 park, so I have to wonder if it wouldn't be just as  
7 economical to build further south and get a rail spur,  
8 you know, look at some other options for tying into the  
9 railroad, which is -- seems to be one of the driving  
10 forces for keeping you where you're at.

11 MR. PRENTICE: We could have possibly, but once  
12 you decide to build a refinery like this and make it the  
13 cleanest one, we would have ended up with the same plant  
14 further away and paid a higher price in logistics.  
15 You're that much further away from Minot. You're  
16 further away from the gathering systems. See, the  
17 gathering systems are all designed to end up at the  
18 railroad. It's just more pipeline to build. Farther  
19 away from the markets. Part of our gasoline market is  
20 up in Canada so --

21 COMMISSIONER CHRISTMANN: What is the --

22 MR. BENDER: Mr. Chairman?

23 COMMISSIONER CHRISTMANN: Could you use the  
24 microphone, please?

25 MR. BENDER: Oh, sure. We had just a brief

1 discussion about the visual issues on this, and Dan  
2 talked a little bit about the kite demonstration and the  
3 modeling. Would you mind if he talked a little bit more  
4 about that? Because obviously the questions I've gotten  
5 have been on visual, and I suspect --

6 COMMISSIONER FEDORCHAK: Uh-huh.

7 MR. BENDER: -- you have gotten a lot of  
8 questions in that regard as well. Would that be all  
9 right?

10 COMMISSIONER FEDORCHAK: Absolutely. If you've  
11 got more to add, please do.

12 MR. HEDRINGTON: Yeah, is there anything  
13 specific you'd like me to address?

14 MR. BENDER: You were talking about the size of  
15 the kite and you were talking about how it was viewed,  
16 from where --

17 MR. HEDRINGTON: Yes.

18 MR. BENDER: -- it was viewed, who was with you,  
19 that sort of thing.

20 MR. HEDRINGTON: Okay. So, well, some of the  
21 things that might be interesting to you folks, when we  
22 made the decision that we were going to do an onsite  
23 demonstration and we invited everybody, we invited the  
24 press and actually --

25 COMMISSIONER CHRISTMANN: Before you go on with

1 that --

2 MR. HEDRINGTON: Please.

3 COMMISSIONER CHRISTMANN: -- I just want to make  
4 an announcement. People are free to kind of come and  
5 go. There's a fire capacity sign outside the door.  
6 You've probably seen that. If something would happen,  
7 you need to kind of follow us.

8 But just if someone needs a break, out in the  
9 hallway by the elevators is a ladies' restroom. And for  
10 the gentlemen, you walk either one floor up or down and  
11 there's a men's restroom on the odd number floors.

12 So go ahead.

13 MR. HEDRINGTON: Thank you. Yeah, so to  
14 elaborate just a little bit on it, and I apologize for  
15 speaking so loudly into it, the -- when we made the  
16 decision to do the onsite demonstration of what that  
17 actual line of sight would look like, remember we did  
18 exhibits and modeling prior to that. And so when we did  
19 it, we had surveyors down below at the actual location  
20 of the -- where the refinery is going to be built.

21 And one of the things that is interesting, when  
22 we lifted the kite up to the exact elevation that the  
23 top of the highest component was going to be, it  
24 couldn't be seen by anybody. People were out there with  
25 binoculars, and there was one gentleman had kind of a

1 littler telescope-looking thing, but a lot of spotting  
2 scopes, things like that, that they were trying to see  
3 it. Couldn't see a thing. And it was a clear day,  
4 great day for doing this type of demonstration.

5           And then what we decided to do, and actually, I  
6 think it was one of the members of the press asked, you  
7 know, Can you lift it higher so we can see how high it  
8 actually is? We lifted it up an additional hundred feet  
9 above what it would be built at. And at that point,  
10 only with spotting scopes and binoculars you could see a  
11 pencil speck in the sky. It was just -- I mean,  
12 literally, it was a dot. And because -- remember, it's  
13 seven and a half miles away from the only point that we  
14 could see it from.

15           When we lowered it back down, so now -- now,  
16 okay, everybody, anybody that has -- has assistance for  
17 seeing, scopes or whatever you have, we're going to  
18 lower it back down to the actual elevation. Once we  
19 lowered it back down, as we started to lower it, it  
20 disappeared and you couldn't see it anymore.

21           So the horizon lines in that area are quite a  
22 bit higher than what you're going to see. I think that,  
23 in regards to what you'd said about the lights too, so  
24 the lights are on the top of our equipment, so that  
25 means the lights are going to be below the horizon line

1 too.

2 COMMISSIONER FEDORCHAK: On the top of the  
3 tower, though, too?

4 MR. HEDRINGTON: Yeah. Exactly. That's the  
5 highest point that we demonstrated. The very highest  
6 piece of equipment that we could possibly have or that  
7 we're going to have onsite, we actually -- that's what  
8 we actually were representing with the kite. So when we  
9 dropped it back down, you couldn't see it because of the  
10 horizon line.

11 COMMISSIONER KROSHUS: Is it visible from  
12 Painted Canyon, the rest area, the rest stop, the  
13 observation area?

14 MR. HEDRINGTON: No, not at all. In that -- in  
15 that area, I mean to the point of -- I mean, we would  
16 have to have lifted it hundreds of feet. That line of  
17 sight is, because of the surrounding terrain and the  
18 buttes and things in the area, it's much higher. So no,  
19 you couldn't see it from Painted Canyon at all.

20 COMMISSIONER FEDORCHAK: What did the kite look  
21 like? Was it -- how do you make a kite look like a  
22 tower?

23 MR. HEDRINGTON: It was just -- it was a big  
24 kite, is really what it boils --

25 COMMISSIONER FEDORCHAK: What color was it?

1           MR. HEDRINGTON: I think it was a red one. So  
2 we wanted it to be as much contrast as we could against  
3 the sky. So it was a blue sky. We elevated it.

4           Something to kind of take into account is that  
5 when our surveyors were down on the ground and they were  
6 visually scoping it, so what happened is if the wind  
7 would shift it, move it a little bit, they would move  
8 the ground point so that it would be -- it would come  
9 back into that exact line. So we were a hundred percent  
10 positive we had it in the exact location.

11           We had multiple surveyors out there. We had,  
12 you know, just a lot of things going on. With this kind  
13 of effort, you want to guard yourself against any  
14 scrutiny.

15           And we invited the press, be here, be there, be  
16 up on top, wherever you want to be. And the same for  
17 any citizen in the area. Same for elected officials and  
18 park officials. We invited everybody we possibly could.  
19 So it was -- actually, to be honest with you, I was very  
20 happy with the turnout. More people showed up than I  
21 thought, but like Mr. Kessel had said, initially there  
22 was people -- people were going, Is this really true?

23           And what we found and what we were able to prove  
24 to them, and they were open enough to want to listen to  
25 it, is that we are telling the truth. You cannot see it

1 from that location. It worked out very well.

2 And even to be honest with you, what we were --  
3 the press reports that were out afterwards were very  
4 positive as well, indicating that you can't see it. So  
5 it worked very well.

6 Is that kind of what you --

7 MR. BENDER: Yeah, that's what I was thinking.

8 MR. KESSEL: I might want to make a comment on  
9 that. There was an oil rig there all summer long with  
10 the derrick in the air, which is taller and bigger, and  
11 I didn't hear anyone complaining about that, that they  
12 seen that. And that was a quarter mile away. Same  
13 elevation. And it was taller. And no one seemed to see  
14 that.

15 MR. SCHUH: Just one question I have. Was the  
16 line of sight test, was that done with just a single  
17 light?

18 MR. HEDRINGTON: Single light?

19 MR. SCHUH: Single light on that kite? For the  
20 visual, it was no light on it at all?

21 MR. HEDRINGTON: There were no lights.

22 MR. SCHUH: Okay.

23 MR. HEDRINGTON: It was during the day.

24 MR. SCHUH: I see. Maybe you could speak a  
25 little bit to the cumulative light pollution that the

1 facility may actually cause to the area.

2 MR. HEDRINGTON: Well, I think that Mr. Prentice  
3 addressed it very well. The only lights that are  
4 anticipated on the structure are what's absolutely  
5 required by federal requirements, OSHA, things like  
6 that, aviation, federal aviation requirements. The  
7 other lights that are going to be on the site are all  
8 going to be downcast and only utilized when necessary.  
9 So I think that he explained it very well.

10 The vast majority of the refineries that you go  
11 by, especially if you go up into Calgary and those  
12 areas, everything is lit. And this site is just not  
13 designed that way. So we expect that those impacts are  
14 going to be as little as possible.

15 MR. SCHUH: Sure. And I don't understand light  
16 pollution by any means, but it doesn't cause any  
17 radiation, radial effect up there beyond that?

18 MR. HEDRINGTON: No, I've never encountered  
19 anything like that, ever.

20 MR. SCHUH: And were these studies done with a  
21 twenty-seven-five, I guess with the tower drift only for  
22 the twenty-seven-five barrels?

23 MR. HEDRINGTON: Twenty-seven-five --

24 MR. SCHUH: 27,500 --

25 COMMISSIONER FEDORCHAK: Capacity.

1 MR. SCHUH: -- capacity facility.

2 MR. HEDRINGTON: They were done actually for --  
3 to be honest with you, we doubled that capacity because  
4 of the requirement.

5 You're talking about air permitting now,  
6 correct?

7 MR. SCHUH: Right. I'm talking about the tower  
8 drift. You're talking about that it can be seen seven  
9 and a half miles away.

10 MR. HEDRINGTON: It had -- that piece of  
11 equipment is needed on the site no matter what. So no  
12 matter what volume is being produced, that piece of  
13 equipment is necessary no matter what.

14 COMMISSIONER FEDORCHAK: And it produces the  
15 same amount at twenty-seven-five versus --

16 MR. HEDRINGTON: Yes.

17 COMMISSIONER FEDORCHAK: -- forty-nine-five  
18 versus 55?

19 MR. HEDRINGTON: Right.

20 MR. SCHUH: So we anticipate it be seven and a  
21 half regardless.

22 MR. HEDRINGTON: Without a question, yes. So to  
23 be clear, that was at ultimate -- or at what we would  
24 envision as the largest potential buildup. So the  
25 highest piece of equipment, the biggest piece of

1 equipment that we think that, you know, would be  
2 potentially visible, that's what we modeled.

3 COMMISSIONER CHRISTMANN: As I understood  
4 Mr. Prentice's explanation about the -- not the safety  
5 type lights but the lights for aviation reasons on the  
6 top of the tower, it sounded an awful lot like one of  
7 the options we're working on here for light mitigation  
8 on wind farms where it would be radar controlled and be  
9 non-operational unless an aircraft was within a certain  
10 distance. Am I understanding that correctly?

11 MR. PRENTICE: Yeah, if the FAA will allow that,  
12 we would do the same thing.

13 COMMISSIONER CHRISTMANN: But you don't have  
14 approval for that yet?

15 MR. PRENTICE: That's in the nature of an  
16 operating permit. I mean, we have to have construction  
17 lighting for, like, cranes and so forth where you would  
18 not go through that process of getting an approval. But  
19 for the towers, yeah, if we can have aircraft lights  
20 that can turn off when there's nothing around, that  
21 would be great.

22 COMMISSIONER KROSHUS: I was trying to dig up  
23 something on that last night and I wasn't able to come  
24 up with anything specific.

25 MR. PRENTICE: I don't think they've yet

1 approved any applications like that, but we're going to  
2 keep an eye on it.

3 MR. KESSEL: I might want to add too, within a  
4 half a mile away, there is also a cell phone tower with  
5 the lights on it and what have you too.

6 COMMISSIONER FEDORCHAK: So with that in mind --

7 COMMISSIONER CHRISTMANN: That's taller than --

8 MR. KESSEL: Way taller.

9 COMMISSIONER CHRISTMANN: -- these stacks  
10 significantly, correct?

11 MR. KESSEL: Yeah.

12 COMMISSIONER FEDORCHAK: With that in mind and  
13 with the commitment that you're going to use as few as  
14 possible, how many is that? How many would the FAA  
15 require from a minimum to light the towers and stuff?

16 MR. PRENTICE: I forget horizontally, but I  
17 think the only thing that we have that would require  
18 aircraft lights would be the crude tower and the flare  
19 stack.

20 MR. HEDRINGTON: Right. And part of our team,  
21 several of them are aviation specialists, and so we'll  
22 have that specifically laid out with communications with  
23 the FAA to make sure that we're complying fully with  
24 what their requirements are.

25 COMMISSIONER FEDORCHAK: Okay. Say that again.

1 Two towers, did you say?

2 MR. PRENTICE: There's a flare stack for  
3 emergency use.

4 COMMISSIONER FEDORCHAK: And then the main  
5 tower?

6 MR. PRENTICE: The crude tower, yeah.

7 COMMISSIONER FEDORCHAK: Two.

8 MR. PRENTICE: Yeah.

9 COMMISSIONER FEDORCHAK: Can you compare the  
10 lighting of this facility, say, like to Tesoro? Have  
11 you seen Tesoro lit up at night, something we're all  
12 familiar with?

13 MR. PRENTICE: Yeah, it's beautiful, isn't it?

14 (Laughter)

15 COMMISSIONER FEDORCHAK: Beauty is in the eye of  
16 the beholder, Bill.

17 MR. PRENTICE: I know.

18 COMMISSIONER FEDORCHAK: How will yours compare  
19 to that?

20 MR. PRENTICE: A tenth, maybe less.

21 COMMISSIONER FEDORCHAK: Okay.

22 MR. PRENTICE: It would cost a lot of money to  
23 go back through an older plant like that and replace it  
24 with downcast lights and the system that would allow you  
25 to turn them off when they're not used at all. So, you

1 know, that's just the way they built refineries back  
2 then.

3 COMMISSIONER FEDORCHAK: All right. Well,  
4 that's a good comparison.

5 So what about the odor? Usually they're kind of  
6 odorific when you drive by a refinery.

7 MR. PRENTICE: Yeah.

8 COMMISSIONER FEDORCHAK: What can you do to  
9 mitigate that and are you doing anything to address that  
10 or do you have plans to on this facility?

11 MR. PRENTICE: Those odors are things that we  
12 could sell. We're not going to -- we're not going to  
13 have a plant that's going to be a leaky mess. That's  
14 product that's going out into the air. Part of that is  
15 leak detection, you know, optical leak detection;  
16 detects those types of hydrocarbons before they're  
17 detectable by the human nose. So those leaks will be  
18 fixed.

19 COMMISSIONER FEDORCHAK: Is that regulated by  
20 the Health Department at all or the county?

21 MR. PRENTICE: Yep. All fugitive emissions are  
22 regulated, yeah.

23 COMMISSIONER CHRISTMANN: By the way, I'm still  
24 kind of defensive of the refinery that was in my  
25 legislative district until just a few years ago. That

1 does not have the odors that the refinery had many  
2 decades ago anymore either.

3 MR. PRENTICE: No.

4 COMMISSIONER CHRISTMANN: They've really done a  
5 lot of work over there too. So I don't want to leave  
6 the impression to people who are listening, like we have  
7 a terrible facility over here next door.

8 COMMISSIONER FEDORCHAK: I don't smell it at  
9 Tesoro, I really don't. The only place --

10 MR. PRENTICE: No, please don't --

11 COMMISSIONER FEDORCHAK: -- I can think of --

12 MR. PRENTICE: -- interpret my remarks as being  
13 critical, because that's a tough job, to own and operate  
14 a plant like that.

15 COMMISSIONER CHRISTMANN: They've done a nice  
16 job over there.

17 MR. PRENTICE: They do a great job, yeah.

18 COMMISSIONER FEDORCHAK: So I wanted to talk a  
19 bit more about the forty-nine-five. That's kind of a  
20 new development that the company has stated and it's  
21 still somewhat contradictory, but it is on your website  
22 at forty-nine-five. That puts you under -- you know, it  
23 puts you within the boundaries of the law. But it  
24 doesn't sit well with folks. I'm just going to be  
25 honest. It looks like you're just barely skirting the

1 siting requirements. And that invites changes in the  
2 law that says what happened with wind development,  
3 companies would just go under and then the threshold  
4 became lower and lower and lower.

5 And so I have to ask again, have you thought  
6 about coming and having -- going through the siting  
7 process. You said you've done the studies. You have  
8 the information. Why wouldn't you just do it, have the  
9 conversation with us, go through the permitting process,  
10 and do it right so you're free to go no matter how big  
11 you want to make it, or up to, you know, the size that  
12 it's sited at? I don't -- tell me what the -- why the  
13 company isn't going that route.

14 MR. PRENTICE: Well, the company -- you really  
15 asked two questions. The company wants to build a  
16 27,500-barrel-per-day plant, and that's what we're going  
17 to do. The company is in the oil refining business.

18 There's a possibility, not the plan, to expand  
19 the facility. They could expand it in ways that  
20 increase throughput or not. I want to defer that until  
21 we are in operation and we decide which way this is  
22 going to go.

23 Amongst other things, you know, every issue that  
24 we've dealt with in permitting on air quality has been  
25 done by compiling information where every single piece

1 of equipment has an emissions expectation. Every one of  
2 those is a probability estimate. They're a type because  
3 we can go see what's in operation someplace, but seeing  
4 it all together in operation tells us a lot more about  
5 what this combination of technology looks like.

6 The forty-nine-five came from saying, okay, we  
7 went through permitting at an upper bound of fifty-five,  
8 back it off ten percent. If we were to expand the plant  
9 up to that level, then, you know, you get about ten feet  
10 away from the cliff before you go look over the edge,  
11 see what's going to happen. It's a matter of  
12 engineering conservancy.

13 Also, as an operating company, we want to get to  
14 twenty-seven-five in operation without further delay on  
15 permitting. We have investors to take care of and we  
16 have people that want to go to work out there.

17 If we get that in operation and decide to expand  
18 it, then that expansion would take the shape of  
19 improvements to the plant and increases in throughput to  
20 get anywhere near your threshold, you're going to see a  
21 siting application from us. That's when it becomes a  
22 plan and not a possibility.

23 COMMISSIONER KROSHUS: Is it accurate to say  
24 you're still seeking capital for the project or has that  
25 been secured?

1           MR. PRENTICE:  It's secured conditional upon  
2 final permit to construct and our various commercial  
3 arrangements.

4           COMMISSIONER KROSHUS:  When you were out  
5 pitching the project to potential investors, I  
6 understand it's always important to tell them that there  
7 is potential growth.  Nobody wants to park money in an  
8 investment that is stagnant.  They want to see growth  
9 long term.  They want to know there's long-term growth  
10 potential.  So I understand that.

11           How much of that was framed up in terms of  
12 looking at the upside potential to the plant when you  
13 were out?  Because that really is the burning question.  
14 The most significant question continues to be the  
15 numbers are all over the place.

16           And Adam, as mentioned, I have no doubt you've  
17 got your work cut out for you in terms of making that  
18 number a little bit cleaner.

19           But kidding aside, because this is really a  
20 serious component in terms of why we're here today, I  
21 see figures of a billion dollars in terms of plant cost,  
22 then I see figures of 800 million, then I see figures of  
23 850 million.  And they're all very recent.  And you  
24 would think that would coincide with the size of the  
25 facility, whether it's a 55,000 barrel or a

1 twenty-seven-five plus, potentially a twenty-seven-five  
2 or a twenty-seven-five plus another 22,000 after that.

3 And that's where the questions, I think  
4 understandably, keep popping up for myself and others.  
5 They're not consistent. A billion, to me, would suggest  
6 a figure attached more to align more closely with a  
7 fifty-five or even 60,000-barrel refinery, just looking  
8 at it from a proportional standpoint.

9 I don't understand the dynamics, the economics  
10 in terms of what a refinery actually costs to build, but  
11 that's where -- you know, we've asked a lot of questions  
12 over the past hour and a half, really questions that  
13 would be more commonly asked in an actual siting case,  
14 about visual effects, etcetera, transportation, that  
15 type of thing.

16 But really, at the end of the day, can you just  
17 try and frame something up that I can get my arms around  
18 a little bit better in terms of, I understand, okay, the  
19 ten percent cut to get it to forty-nine-five, but why  
20 the shift?

21 MR. PRENTICE: Sure. On the capital side, it's  
22 a bit more complicated, but keep in mind that we started  
23 this company during a period of time when there was no  
24 such thing as venture capital for a conventional energy  
25 company. If you had a new electric car or a windmill or

1 something like that, then people in Silicon Valley would  
2 shower you with money. So we were left to our own  
3 devices.

4 And there are documents out there that are all  
5 over the map. But that's not a matter of hype. It's  
6 more of a disclosure item. If you're going to spend  
7 people's money, you got to tell them, yeah, there's a  
8 possibility that we're going to spend some of this money  
9 on looking at expansion of the plant. We've also had to  
10 tell people that we're now looking at other locations  
11 too, Texas and Oklahoma, for a similar facility. Those  
12 are all disclosure items.

13 Then when I'm talking to the press and I am not  
14 surrounded by lawyers and people ask me what the  
15 ultimate capital could be for the plant, and so whatever  
16 the maximum that we're thinking of at the time, those  
17 are the numbers we come up with. So yeah, that's my  
18 fault. And, you know, maybe I'll have to wear a shock  
19 collar with Adam nearby if I start to talk about some of  
20 this stuff.

21 But the fact is, yeah, if we went up to  
22 forty-nine-five or fifty-two, that would be a, you know,  
23 800, \$850 million capital investment requiring  
24 (indiscernible) capital of well over a million dollars.  
25 So those numbers are consistent with a somewhat larger

1 plant.

2           What we're talking about building here, what my  
3 plan is, is to get the permit, close financing, start  
4 construction on twenty-seven-five. That's the capital  
5 we will have for that specific project.

6           COMMISSIONER CHRISTMANN: One thing I'm just not  
7 understanding, and I suppose maybe a lot of people don't  
8 since there hasn't been a full-scale refinery built for  
9 so long, but are a lot of the components of a refinery  
10 kind of off-the-shelf things?

11           And let me explain what I mean by that. With  
12 gas generation facilities, we site them if they're  
13 50 megawatts. There have been a whole bunch go up at  
14 45, and it appears like they're just building them small  
15 enough so they don't have to get siting. But the fact  
16 of the matter is it's a common design and they buy these  
17 components, it just happens to be that, that you go to  
18 that company and they're kind of almost premanufactured  
19 and go and set it up.

20           MR. PRENTICE: Right.

21           COMMISSIONER CHRISTMANN: So with the refinery,  
22 why twenty-seven-five? Is there certain things -- and  
23 with the future potential expansion of another  
24 twenty-seven-five, why isn't it twenty-five and  
25 twenty-five or thirty and thirty? Are there pre-made

1 parts of this that snap into place, or is that just  
2 numbers you've picked out based on market and capital  
3 availability?

4 MR. PRENTICE: No, they're -- a refinery is a  
5 bit more complicated than a power facility. You know,  
6 running a refinery is like buying a latte and trying to  
7 separate it back into cream and coffee and water. And  
8 everybody's going to address it differently.

9 The reason we picked twenty-seven-five is some  
10 of our team had previously worked on a facility down in  
11 Houston, on the Ship Channel, that was at 25,000 barrels  
12 a day. The design of that crude tower, when you  
13 simulate running Bakken crude through it, actually can  
14 get you to twenty-seven-five. So that became our first  
15 Lego, if you will, for the project, that crude tower.  
16 Then we added to that.

17 Now, this refinery is not a topping unit so, you  
18 know, you have choices. Oil has too much carbon in it,  
19 so you either figure out how to get rid of carbon or how  
20 to add hydrogen. So we're adding hydrogen. We have two  
21 hydro-treaters and what is called a reformer. And  
22 that's pretty expensive gear, but that gives you  
23 finished product at the end. So it's not a topping  
24 unit. It's a full conversion refinery.

25 And, you know, we talk a lot about how clean it

1 is, but it's really an accomplishment to figure out how  
2 to get a minimum economic size for a project like that  
3 down this low. That and being clean, I think, is going  
4 to also change the industry. So, you know, the sizing  
5 components build off of that crude throughput at  
6 twenty-seven-five.

7 Now, when we were asked by the Air Quality  
8 Division to go ahead and throw into our air permit what  
9 it would look like as an upper bound, we just doubled  
10 the crude tower and, you know, so you end up with  
11 fifty-five. That's how sophisticated that decision was.

12 COMMISSIONER CHRISTMANN: So a plant that was  
13 already -- or a refinery that was already operational at  
14 twenty-seven-five, an expansion could be another  
15 10,000 barrels or could be 20,000 or could be  
16 twenty-seven-five, or it could be any number that the  
17 market was calling for?

18 MR. PRENTICE: Well, what you end up doing when  
19 you go into operation on a plant like that is you begin  
20 to look for areas where engineering conservancy led you  
21 to improper matching of different types of equipment.  
22 So you de-bottleneck the plant.

23 So yeah, within a year or so after the  
24 twenty-seven-five, we might, just by, you know, changing  
25 out pumps here and there, be up to thirty. You know, at

1 the same time, we have to go through a process of fixing  
2 our market up to where that additional product will go  
3 out.

4 I mentioned earlier, one of the problems with  
5 Bakken the crude is, at this level, we get a lot of  
6 residual out of it. Now, Bakken is also very high  
7 paraffin crude, which means your opportunities for  
8 lubricating oils are there. There are firms that  
9 specialize in that end of the barrel. And so as we get  
10 into operation, we'll take a look at that.

11 So yeah, every plant is different. I mean, look  
12 at the evolution of the Mandan plant over time.

13 COMMISSIONER CHRISTMANN: Something I read a  
14 long time ago, maybe it was two years ago or so,  
15 indicated that this was going to be, well, that it was a  
16 55,000-barrel-a-day facility and that there was a first  
17 stage of twenty-seven-five and then followed immediately  
18 by the increase of another twenty-seven-five. It seemed  
19 more like a situation where we can only build so much at  
20 a time, we'll get this part operational, start having  
21 some revenues and such, and continue on with getting our  
22 whole plan into effect, as opposed to no,  
23 twenty-seven-five is what we want but the Health  
24 Department just asked us to throw something else in so  
25 we doubled it and came up with that randomly.

1           This sounded very specific, like it was one  
2 project built in two phases with dates included as to  
3 when they would -- the plan was to start and complete  
4 them. Can you address that?

5           MR. PRENTICE: Well, I don't want to blame the  
6 Health Department, but the fifty-five is essentially  
7 double what we start out with. The plan to expand is  
8 going to be dependent upon capital. So that is not  
9 really a plan. That is a possibility at this point.

10           Also, with the additional engineering we've done  
11 over the last five months, just getting a bigger plant  
12 is not necessarily the most profitable thing for us to  
13 do. There are other possibilities here.

14           So, you know, yes, we have made a lame attempt  
15 in the past to reconcile what we're doing as far as  
16 going forward with the project and make that consistent  
17 with our permit applications and so forth. But again,  
18 let me be clear, our current plan is twenty-seven-five.  
19 Whatever we do after that will depend on the market, and  
20 particularly the capital markets.

21           COMMISSIONER FEDORCHAK: That said, and, you  
22 know, you're well within the law to build at  
23 twenty-seven-five without a siting permit, you've hired  
24 one of the attorneys in North Dakota who's most familiar  
25 with our siting process, and our siting process, it

1 sounds like you've done a lot of the studies, etcetera,  
2 that would need to go into an application, you could do  
3 -- you could do it three to six months, you could be  
4 done with the siting process.

5 So, again, I'm going to implore you, just go  
6 through the siting process. I don't see why you  
7 wouldn't do that. Is it a cost thing? Is it a time  
8 thing? Is it the public scrutiny? What is it? When  
9 you're contemplating so publicly going beyond the siting  
10 threshold that would make it jurisdictional and you know  
11 you're in a sensitive area, why not just come forward  
12 and go through the siting process?

13 MR. PRENTICE: Well, I guess my response would  
14 have to be that for the plant that we intend to build  
15 now, we believe we have complied with the applicable  
16 siting process. I understand that you would like to  
17 take a formal look at this project, and you may have an  
18 opportunity to, but, you know, in the private sector we  
19 very seldom look for excuses to have another regulatory  
20 layer on what we're trying to do. That's not something  
21 we contemplated just because it would be of interest to  
22 you to look at it.

23 COMMISSIONER FEDORCHAK: So you've completely  
24 ruled out the possibility of going through the siting?

25 MR. PRENTICE: No. We are going to comply with

1 the law. You will probably see a siting certificate  
2 application from us at some point in the future.

3 COMMISSIONER FEDORCHAK: And you mentioned a few  
4 minutes ago that you're looking at other locations in  
5 other states. For this facility?

6 MR. PRENTICE: This type of facility.

7 COMMISSIONER FEDORCHAK: Is that in addition to  
8 this facility or in exchange for this?

9 MR. PRENTICE: In addition.

10 COMMISSIONER FEDORCHAK: Oh, in addition.

11 COMMISSIONER KROSHUS: Is the project, potential  
12 project in Texas, does that mirror this project or is it  
13 a different type of refinery?

14 MR. PRENTICE: It's very similar. I mean, the  
15 business model is clean refineries, niche markets,  
16 something that can be done as a minor source. There are  
17 several places in the nation that could satisfy those  
18 requirements.

19 COMMISSIONER KROSHUS: And that project is a  
20 50,000-barrel refinery, correct?

21 MR. PRENTICE: It could be quite a bit more.  
22 That's a different market. You've probably read a lot  
23 of the news lately about product going into Mexico.

24 COMMISSIONER KROSHUS: Is that a one-phase  
25 project or a two-phase project, or beyond three?

1           MR. PRENTICE:    Could be three or four, depends  
2           on capital.

3           COMMISSIONER KROSHUS:    So build it in chunks as  
4           well, wouldn't be fifty out of the gate?

5           MR. PRENTICE:    Again, you know, the Permian  
6           crude is very similar to Bakken crude in many respects.  
7           So the same basic configuration for a crude unit would  
8           be the starting building block.  You have people that  
9           fabricate these things that are very good at it, so you  
10          don't want them doing four at a time.  You do them one  
11          after the other.

12          COMMISSIONER CHRISTMANN:  I'm kind of jumping,  
13          seems like a lull here, so I want to jump to a little  
14          bit different subject.  Can you describe on the map  
15          about where the pipeline is, the incoming pipeline?

16          MR. KESSEL:    It would be, from the corner of the  
17          yellow, it would be about a hundred yards off of that.

18          MR. PRENTICE:    Thanks, Greg.

19          COMMISSIONER FEDORCHAK:  Which corner?

20          MR. KESSEL:    The northwest corner of the site.  
21          The Bakken link is about a hundred yards off of that.

22          COMMISSIONER CHRISTMANN:  And that's going to  
23          that Fryburg station?

24          MR. KESSEL:    Yes.

25          COMMISSIONER CHRISTMANN:  And --

1 MR. PRENTICE: That's one possibility. There  
2 are four different gathering systems including one that  
3 we would build -- or the firm that would supply us would  
4 build an extensive line from the north down directly to  
5 the refinery. But, you know, there's -- there are lines  
6 through, along 94 and north and south on either side of  
7 us that we can tie into.

8 COMMISSIONER CHRISTMANN: Does it cross this  
9 property? Would a pipeline have to be built from that  
10 to this facility, even a short one?

11 MR. PRENTICE: Yeah.

12 COMMISSIONER FEDORCHAK: There's gathering  
13 systems, though, all over that area.

14 MR. PRENTICE: Yes.

15 COMMISSIONER FEDORCHAK: So further east there  
16 would be gathering systems that you could tie into as  
17 well, as well as the rail.

18 MR. PRENTICE: What we like is the fact that  
19 there are several, and that gets us into different areas  
20 of the Bakken.

21 COMMISSIONER FEDORCHAK: From a supply  
22 standpoint.

23 MR. PRENTICE: Yes.

24 COMMISSIONER FEDORCHAK: I would venture to  
25 guess that there's a lot of different sites that would

1 offer that same possibility, maybe more limited along  
2 the rail system, I don't know, I'm not -- we don't  
3 permit the gathering systems, but there's an awful lot  
4 of pipes in the ground all over in that western part.

5 Mr. Chairman, I don't have any more questions.  
6 Perhaps you do, you and Brian do.

7 COMMISSIONER CHRISTMANN: No, I think I'm pretty  
8 well covered too.

9 Brian.

10 COMMISSIONER KROSHUS: I've asked some of the  
11 questions, of course, along the way.

12 COMMISSIONER CHRISTMANN: While you're checking  
13 over, I did miss maybe a couple. An expansion  
14 from twenty-seven-five to something significantly more,  
15 would that require additional property, or does this  
16 diagram show enough property to even double a  
17 twenty-seven-five?

18 MR. PRENTICE: We're -- we're occupying a very  
19 small portion of that property. So yes, it would all be  
20 within that property.

21 COMMISSIONER KROSHUS: Do you have another  
22 question, Randy?

23 COMMISSIONER CHRISTMANN: Not right now anyway.

24 COMMISSIONER KROSHUS: Okay. Well, it appears  
25 we're getting close to the end. This is probably -- you

1 know, the two issues that I mentioned early on, one just  
2 the -- trying to get my arms around the numbers that  
3 we've talked extensively about, so I don't have to dive  
4 back into that. Just moving around, so much between,  
5 you know, above the threshold, below the threshold costs  
6 are really not a matter that I'm terribly interested in  
7 because that's between you and the investment community  
8 to make the project go, but I'm just looking at it from  
9 a proportional standpoint.

10 But the other part would be, and this will  
11 continue to occur in western North Dakota and particular  
12 as the oil and gas industry continues to grow, and that  
13 is how do you balance public interest while respecting  
14 private landowner rights and not infringing upon those  
15 rights and trying to get -- get to the right balance in  
16 all of this. And it's a challenge, and I doubt that we  
17 will ever see perfection when it comes to that. I don't  
18 know that it could possibly exist. We strive for  
19 perfection but we live in an imperfect world.

20 We live in a world that continues to be heavily  
21 powered and reliant on fossil fuels. Will that shift  
22 and change as time goes on? We'll see. We'll see a  
23 change in that regard as more renewables come online,  
24 but for now, we live in a carbon-, fuel-based world.  
25 That's just the reality.

1           So I appreciate the fact that you came in and  
2 answered some of the questions. It seems like whenever  
3 you do something like this, you probably walk away with  
4 as many questions as you walked in with. And that just  
5 means we're thinking about it, you know, from every  
6 angle. So I suspect I will have a few followup  
7 questions that I would pose and nothing immediate right  
8 now. And if there was, I would certainly do it in as  
9 public a venue and transparent a way as possible. But  
10 for now, that's it for me in terms of what I have.

11           MR. PRENTICE: Thank you. Thank you for this  
12 opportunity. And the challenge from my perspective,  
13 from the private perspective, is trying to make sense of  
14 various areas of law and regulation and plan a business  
15 accordingly. And, you know, for a project of this size,  
16 we had been thinking we've done a pretty good job, but  
17 it's obviously not a perfect job, it's not a perfect  
18 process.

19           I have no objection to coming back periodically  
20 to talk about the project if you want us to. You know,  
21 the questions that arose probably would not have become  
22 significant questions if we had been in here more  
23 frequently on a personal basis and not just exchanging  
24 letters. So whatever you would like to do there is  
25 fine.

1           COMMISSIONER CHRISTMANN: Anything else from  
2 staff that you had questions before we wrap up?

3           Okay. Then if anybody from the company has any  
4 final comments and then the commissioners will and we'll  
5 wrap up for the day. But is there anything else you'd  
6 like to add?

7           MR. PRENTICE: No. Just thank you for letting  
8 us come in to talk to you.

9           MR. BENDER: I would just say that we hope you  
10 found this useful. I know that we've tried to be  
11 responsive to your questions by way of letter, but I  
12 think this was a more efficient way of getting to all  
13 your questions. I can imagine if some of the questions  
14 would have come by letter, we would have responded,  
15 which would have precipitated more questions.

16           So hopefully, you found this helpful, and echo  
17 Mr. Prentice's remarks that if you have more questions  
18 down the road, please don't hesitate to invite us to  
19 come back.

20           COMMISSIONER CHRISTMANN: Okay. Any other  
21 closing comments?

22           COMMISSIONER KROSHUS: No. I think I  
23 inadvertently made my -- gave my closing comments, other  
24 than -- the final comment would be I certainly  
25 understand the aesthetic beauty of the Badlands. I've

1       been attracted to the Badlands and I spent a lot of time  
2       out there at a ranch that I have south of Sentinel  
3       Butte. So I completely understand, whether it's the  
4       national park or just the Badlands in general, they are  
5       a very special place.

6               And on one hand you want to see economic  
7       development occur. It's good for the state. It's good  
8       for the economy. It's good for counties. And we need  
9       that type of growth. But on the other hand, you like to  
10      preserve the very special places that we have in this  
11      world as well. And it's a tough juggling act. No doubt  
12      about it.

13             Thank you for coming in. Appreciate it.

14             MR. PRENTICE: Thank you.

15             COMMISSIONER CHRISTMANN: One of the things  
16      in five years that I've noticed here is that sometimes  
17      we go through painstaking details in establishing not  
18      only all the evidence and cases but a lot of details  
19      about whether something is jurisdictional or not. And  
20      we look at it with the same seriousness, whether it's  
21      something that seemingly from what you get in the press  
22      or from comments that come in to this Commission that  
23      nobody cares about or something that really a lot of  
24      people care about.

25             This is one, it's no secret, that a lot of

1 people care about. This room is full. There's been  
2 things in the press for many months now. So it's  
3 something that a lot of people care about.

4 Our decisions are pretty much all things that  
5 can be appealed into court. So even us making a  
6 decision isn't necessarily the end of it, although I  
7 will say with a fair amount of pride that we have a  
8 tremendous track record of having our decisions affirmed  
9 by the courts. So there is that.

10 But I think because of the amount of concern  
11 that is out there in the public, because of things that  
12 were said by company officials to the press that will be  
13 at least suggested as evidence, I fully expect that when  
14 you break ground, someone is going to bring a complaint  
15 case that this is in violation of the Siting Act and  
16 that then we're going to be back here making a  
17 jurisdictional decision with evidence presented on the  
18 record and sworn testimony, and that if we decide that  
19 it's jurisdictional and you have to start -- you have to  
20 stop construction, that the company will appeal it to  
21 court. And if we decide that it is non-jurisdictional,  
22 that someone else will appeal it to court. And in  
23 either case, you could be holding yourselves up from  
24 construction for a long time regardless what we would  
25 decide in that case. But I don't think it's any secret

1 that that's a possibility of what could play out here.

2 I will say for my own thinking at this point, I  
3 wish we had probably had this opportunity to visit  
4 earlier. I found this helpful. It's answered some  
5 questions and -- to me about why the numbers have  
6 evolved over time. But I expect we'll ultimately be  
7 back here in a jurisdictional situation.

8 COMMISSIONER FEDORCHAK: Thank you, Randy. I'll  
9 kind of add to what your final comments were, and that  
10 is to say thanks again for being here and for sharing  
11 information. I've learned a lot more about the plans  
12 than trying to figure it out online and through letters,  
13 etcetera. So that was very helpful.

14 Just like Greg was saying through the county  
15 process where over that -- through that public process,  
16 people came to know about the project and understand it  
17 better and have their fears mitigated, and you probably  
18 gained support through that process, I believe the same  
19 would be true with ours. It's a proven process. It's  
20 very transparent. It works. And it's not real onerous.

21 So I know you don't have to do it, but I think  
22 there's a lot of compelling reasons why you should. And  
23 I urge you again to seriously consider coming through  
24 for the -- through the siting process. I think you  
25 could alleviate yourself some problems in the long run

1 by doing that on the front end. A little bit of extra  
2 time perhaps, but I think, in the long run, it would be  
3 much better for you as a company to have completed that  
4 process and I think it will save you trouble.

5 So thank you, though, for being here. You've  
6 gone above and beyond in so many ways with this project.  
7 I think you should also do it on the siting and come to  
8 us for the siting permit.

9 So thank you for your time and I appreciate your  
10 willingness to come forward and talk to us again as the  
11 project proceeds. And again, thanks for being here.

12 MR. PRENTICE: Thank you.

13 COMMISSIONER CHRISTMANN: Thank you again.  
14 We'll close this meeting.

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