

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Dakota Gasification Company :
Carbon Dioxide Gas Pipeline - : Case No. PU-21-150
Mercer County :
Siting Application :

TRANSCRIPT OF
HEARING

Taken At
1900 Central Avenue North
Beulah, North Dakota
July 12, 2021

BEFORE HOPE HOGAN
-- ADMINISTRATIVE LAW JUDGE --

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A P P E A R A N C E S

COMMISSIONERS PRESENT:

COMMISSIONER JULIE FEDORCHAK, Chair
COMMISSIONER RANDY CHRISTMANN
COMMISSIONER BRIAN KROSHUS

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FOR THE PUBLIC SERVICE
COMMISSION.

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1 (The following proceedings were had and
 2 made of record herein, commencing at 8:30 a.m.,
 3 Monday, the 12th day of July, 2021:)
 4 JUDGE HOGAN: All right. Good morning.
 5 We're going to get started. It's 8:30 on July 1,
 6 2021. This is the time and date set by the Notice
 7 of Filing and Public Hearing issued by the North
 8 Dakota Public Service Commission on June 9, 2021,
 9 for Case Number PU-21-150.
 10 My name is Hope Hogan, and I'm the hearing
 11 officer that's been designated for this hearing.
 12 I'm an administrative law judge designated by the
 13 Office of Administrative Hearings upon the request
 14 of the Public Service Commission.
 15 This hearing is being held this morning at
 16 the Energy Wellness Center in Beulah, North Dakota.
 17 As we begin the hearing, I'd ask that you
 18 please check your cell phones to make sure they're
 19 either turned off or silenced so that we can avoid
 20 those kind -- those types of disturbance during our
 21 hearing this morning.
 22 I also sent an attendance sheet around,
 23 and the Commission would ask that everybody sign
 24 the attendance sheet so that we have a record of
 25 who is attending our hearing this morning.

8

1 This hearing is on the application of
 2 Dakota Gasification Company regarding a certificate
 3 of corridor capability and route permit for a
 4 proposed pipeline project. The proposed pipeline
 5 project is a 2.9 mile of 12-inch and 3.9 mile of
 6 6-inch outside diameter carbon dioxide gas pipeline
 7 wholly located in Mercer County, North Dakota.
 8 The notice of filing and notice of hearing
 9 specified the following issues to be considered and
 10 determined in this matter:
 11 Number 1, will the construction, operation
 12 and maintenance of the facility at the proposed
 13 location produce minimum adverse effects on the
 14 environment and upon the welfare of the citizens of
 15 North Dakota?
 16 Number 2, are the proposed facilities
 17 compatible with the environmental preservation and
 18 the efficient use of resources?
 19 And, number 3, will construction,
 20 operation, maintenance of the facility at the
 21 proposed location minimize adverse human and
 22 environmental impact while ensuring continuing
 23 system reliability and integrity and ensuring that
 24 energy needs are met and fulfilled in an orderly
 25 and timely fashion?

9

1 We will now have the parties make their
 2 appearances. Ms. Jacobson, do you want to note
 3 your appearance for the record and introduce the
 4 witnesses you intend to call this morning?
 5 MS. JACOBSON: Yes. Thank you, Your
 6 Honor.
 7 Casey Jacobson on behalf of Dakota
 8 Gasification Company, DGC. And this morning we
 9 will have three witnesses that will be testifying.
 10 The first is Tyler Schilke. He is the supervisor
 11 of mechanical engineering at Basin and he's also
 12 the project manager.
 13 The second witness will be Kevin Solie.
 14 He's the senior environmental compliance
 15 coordinator at Basin Electric, and he will be the
 16 second witness.
 17 And then the last witness will be Claude
 18 O'Berry, and he is the pipeline superintendent at
 19 DGC.
 20 Thank you, Your Honor.
 21 JUDGE HOGAN: Thank you.
 22 Mr. Pelham, do you want to state your
 23 appearance for the record and introduce Commission
 24 staff with you this morning?
 25 MR. PELHAM: Thank you, Your Honor.

10

1 Good morning. On behalf of the
 2 Commission, Special Assistant Attorney General
 3 Zachary Pelham. To my right is Victor Schock,
 4 public utilities analyst, who may have some
 5 questions, and we would ask that he be permitted to
 6 ask questions at this hearing.
 7 Thank you.
 8 JUDGE HOGAN: Does the Commission intend
 9 to call any witnesses for this hearing?
 10 MR. PELHAM: We do not.
 11 JUDGE HOGAN: All right. Testimony for
 12 the public will be taken at the completion of
 13 Dakota Gasification Company's presentation of
 14 witnesses. By a show of hands, is there anyone
 15 present in the audience who may testify or comment
 16 this morning? All right. Couple -- couple hands.
 17 All right. I encourage you to take this
 18 opportunity to tell the commissioners anything you
 19 think the Commission should know about this matter.
 20 I assure you that you have -- what you have to say
 21 is important to the Commission and will be
 22 considered by the Commission as they decide this
 23 case.
 24 If you have not yet signed the attendance
 25 sheet or if you have signed it, if you want to mark

11

1 that you intend to testify, that will help us when
 2 we get to that portion of the hearing. If you have
 3 any questions about providing any documents to the
 4 Commission, such as maps, photos or other such
 5 documents that you'd like included in the record,
 6 please talk to me during the break and we'll
 7 discuss that.

8 It's now time for opening comments from
 9 the commissioners. Commissioner Fedorchak.

10 COMMISSIONER FEDORCHAK: Good morning,
 11 everybody. Good to be here in Beulah this morning,
 12 next to one of Beulah's most famous residents.

13 It's a great place to be and a wonderful
 14 facility. We were -- I apologize that it's a
 15 little tight. We maybe could have found a place
 16 that was a little more roomy. We weren't sure how
 17 big it was, but Randy wanted to be near the, you
 18 know, workout equipment in case there was a break
 19 and he could go get a little exercise, so we chose
 20 the wellness center.

21 Anyway, it's an interesting project. I
 22 look forward to the hearing today and learning more
 23 about this project, the -- the route, the actual
 24 infrastructure that's being proposed.

25 And as Hope said, the ultimate goal of

12

1 this in every siting is to balance. Balance both
 2 the production and development of our energy --
 3 state's energy resources with having a minimal
 4 impact on the environment and the people who live
 5 around this infrastructure.

6 And so that's what we're always looking
 7 towards is finding that right balance, making sure
 8 that we're doing things properly from an
 9 environmental standpoint and also making sure that
 10 we're being conscious of the folks that are living
 11 around these facilities, and recognizing any -- any
 12 impacts that they might experience and how to
 13 mitigate those.

14 So look forward to a productive hearing,
 15 and -- and thanks for being here.

16 JUDGE HOGAN: Thank you.
 17 Commissioner Christmann.

18 COMMISSIONER CHRISTMANN: Well, for those
 19 who have known me best and for a long time, you
 20 probably know that I'm more excited about the
 21 location not for the workout equipment but because
 22 it's centrally located between Dairy Queen and
 23 Fanatics Sports Bar. So those seem more appealing
 24 to me.

25 But I guess I get pretty excited about

13

1 having any of our hearings or anything back here in
 2 Mercer County because I do just love it up here.

3 Usually, though, our projects involve more
 4 landowners and so we get larger attendance, but one
 5 of the things that was -- when we had the show of
 6 hands of who might want to testify, just because
 7 you did not show your hand does not mean that
 8 you're not allowed. We urge people to testify
 9 because, you know, our role here is not to be an
 10 advocate for the developer and -- and try and
 11 ramrod a project through. It's also not to be an
 12 obstacle and trying to be -- you know, have a foot
 13 in the door and hold things up.

14 Our role is to make sure that we get all
 15 the information and make a good decision as quickly
 16 as possible and make sure that these projects are
 17 done in accordance with the law of the State of
 18 North Dakota. That's what we're here for. We can
 19 do that the best when we have as much information
 20 as possible.

21 So as we go, if you hear things you have
 22 concerns about or if you have concerns now and
 23 things weren't answered to your satisfaction, the
 24 public's role is not to ask questions, but you're
 25 certainly welcome at the end, even if you didn't

14

1 arrange it in advance, to -- to make comments to
 2 us, and we encourage that.

3 I do just want to highlight to the company
 4 there are a number of things in application I have
 5 questions on and I'm imagining will likely be
 6 answered in the testimony, but one of the things
 7 that's, I guess, unique to this case so I bring it
 8 up now is having part of the project in an active
 9 mine permit, and so I'm -- I'm looking to get some
 10 answers to that.

11 Thank you.

12 JUDGE HOGAN: Thank you. Commissioner
 13 Kroshus.

14 COMMISSIONER KROSHUS: All right. Thank
 15 you, Your Honor.

16 Good morning, everyone. It's good to be
 17 here up in Beulah, and I'd echo similar thoughts.

18 One thing when we go through the siting
 19 applications, it's about going through an extensive
 20 checklist, making sure the application meets the
 21 requirements set forth in law.

22 This is not a time for the Commission
 23 to -- nor is it ever a time to modify the law or to
 24 change it. That's a legislative process. So we
 25 apply the law as it is written today, fairly and

15

1 accurately is the intent.

2 And the one thing with that said, I'm

3 excited about this particular project because it

4 signals a continuation of the conversation that is

5 happening not just in North Dakota but across the

6 country, and that helps -- and that is helping to

7 support the long-term use of a valuable energy

8 resource, which is coal, and we need to continue

9 looking at that as a viable energy solution because

10 it's proven, it's needed and reliability is

11 critical.

12 Now, with that said, we're not a

13 cheerleading squad so, again, the application has

14 to meet the proper requirements, but just on -- on

15 that note, I'm excited about this because it's just

16 another important step forward for the state of

17 North Dakota if the application meets the

18 requirements, it's approved and the project is put

19 in place.

20 So look forward to a productive hearing,

21 and I'll turn it back to you, Your Honor.

22 JUDGE HOGAN: Thank you.

23 Ms. Jacobson, do you have any preliminary

24 opening remarks, matters or motions that you want

25 to make?

16

1 MS. JACOBSON: Your Honor, I don't have an

2 opening statement, but if this is the appropriate

3 time, I would move for the admission of Exhibits 1

4 through 10.

5 JUDGE HOGAN: All right. And, Mr. Pelham,

6 any objection to the exhibits or entering them at

7 this point in the hearing?

8 MR. PELHAM: No objections to the

9 exhibits, Your Honor.

10 JUDGE HOGAN: All right. Then Exhibits 1

11 through 10 will be admitted into the record.

12 Mr. Pelham, did you have any opening

13 remarks, matters or motions?

14 MR. PELHAM: No, I'm just looking forward

15 to a good hearing and we'll see how things go.

16 Looking forward to a good hearing.

17 JUDGE HOGAN: All right. Ms. Jacobson, do

18 you want to call your first witness?

19 MS. JACOBSON: Yes, Your Honor. Thank

20 you. I would call Tyler Schilke, please.

21 JUDGE HOGAN: Good morning, Mr. Schilke.

22 MR. SCHILKE: Good morning.

23 JUDGE HOGAN: Just for our record, can you

24 spell your last name?

25 MR. SCHILKE: S-c-h-i-l-k-e.

17

1 JUDGE HOGAN: And before you testify this

2 morning, I'm required by law to advise you on the

3 penalties for perjury in the state of North Dakota.

4 Perjury is a Class C felony punishable by a maximum

5 fine of \$10,000, a maximum 5 years imprisonment or

6 both. Do you understand what perjury is?

7 MR. SCHILKE: Yes.

8 (Witness sworn.)

9 JUDGE HOGAN: All right. Thank you. Go

10 ahead, Ms. Jacobson.

11 MS. JACOBSON: Thank you, Your Honor.

12 **TYLER SCHILKE,**

13 being first duly sworn, was examined and testified

14 as follows:

15 **EXAMINATION**

16 **BY MS. JACOBSON:**

17 **Q.** What is your name, business address and

18 occupation?

19 **A.** My name is Tyler Schilke. I'm the

20 mechanical engineering supervisor at Basin

21 Electric. The address is 1717 East Interstate

22 Avenue in Bismarck, North Dakota.

23 **Q.** And what is your employment history?

24 **A.** I've been employed in the mechanical

25 engineering department of Basin Electric for the

18

1 past 14 years. Prior to that, I worked for Applied

2 Engineering for three years as a test engineer.

3 During my time at Basin Electric, I've worked on

4 engineering projects for all of Basin Electric's

5 power-generating facilities as well as DGC.

6 **Q.** And what have been your responsibilities

7 with the proposed project?

8 **A.** My role in this project is the project

9 manager. In that role my responsibilities are

10 coordinating all aspects of the project, including

11 design, permitting, construction and commissioning.

12 **Q.** Would you please provide a description of

13 the proposed project?

14 **A.** Sure. If you refer to Exhibit 8, which is

15 the hearing map. Okay. At the -- at the bottom of

16 the page there is Dakota Gasification Company's

17 Great Plains Synfuels Plant. North is to the top

18 of the page. And I'll start by describing the --

19 the underground facilities first.

20 The red line shown there is the 12-inch

21 main line which starts at DGC and ends up at well

22 site number 3. I should mention each of the six

23 proposed well sites are numbered there, 1, 2, 3, 4,

24 5 and 6, and are represented by the orange dot.

25 Branching off of the 12-inch main line are

19

1 6-inch branch lines that, again, branch from the
 2 12-inch line and -- and end at each one of the well
 3 sites.

4 The -- for the aboveground facilities,
 5 starting first with the aboveground facilities at
 6 DGC, the line will connect to the existing CO₂
 7 pipeline aboveground. There will be a flow meter,
 8 a flow control valve, a motor-operated block valve,
 9 a pig launcher, and manual valves which will be
 10 used for maintenance and operations of the -- of
 11 the equipment.

12 At wells -- at site 3, there will be a pig
 13 receiver on the -- on the 12-inch line. In
 14 addition, there will be branch lines for each of
 15 the -- each of the 6-inch lines going to well sites
 16 2, 3, 4, 5 and 6. Those will also have a
 17 motor-operated valve, which is capable of remote
 18 operation located very near the connection to the
 19 12-inch main line.

20 At the -- at the end of the line at the
 21 well sites, there will be a flow meter. There will
 22 also be manual valves at each end to -- to
 23 facilitate operations and maintenance of the
 24 equipment.

25 Q. Are you familiar with the application that

20

1 was submitted to the PSC and is Exhibit 1?
 2 A. Yes.

3 Q. Have there been any changes to the
 4 application since it was submitted?
 5 A. The only significant change is that since
 6 the application was submitted, DGC has elected to
 7 take responsibility for development of the well
 8 sites themselves.

9 Q. Thank you. Please explain why DGC has
 10 proposed this project and the importance of the 45Q
 11 tax credits to DGC?
 12 A. DGC has proposed the project in order to
 13 sequester additional CO₂ produced by the plant site.
 14 The 45Q tax credits make it economically feasible
 15 to do this.

16 Q. Are you aware of the potential of the
 17 Great Plains Synfuels Plant to be sold to Bakken
 18 Energy Mitsubishi for a hydrogen facility?
 19 A. Yes.

20 Q. Will the proposed project continue if that
 21 happens?
 22 A. Basin Electric plans to continue with the
 23 project. In the event that the plant site is sold,
 24 Bakken Energy has indicated that they, too, plan
 25 for CO₂ sequestration as part of -- as part of the

21

1 facility, and it's anticipated that it would be
 2 used in the future if that scenario played out as
 3 well.

4 Q. What amount of CO₂ will the project move
 5 and ultimately store?
 6 A. Initially, the project will transport 60
 7 thou -- 60 million standard cubic feet or
 8 3100 metric tons per day.

9 Q. What are the benefits of CO₂ sequestration?
 10 A. CO₂ sequestration has -- has the benefit of
 11 reducing emissions that -- reducing greenhouse gas
 12 emissions. In addition, this -- this project has
 13 the potential to keep viability for the plant's
 14 coal and energy facilities, and it also makes a
 15 positive contribution towards net -- net zero
 16 carbon emissions.

17 Q. Please describe the proposed schedule
 18 including when you anticipate starting
 19 construction.
 20 A. The -- based on material deliveries, the
 21 start of construction is anticipated to begin at
 22 the end of September of this year. Construction
 23 will -- will continue until winter conditions
 24 prevent any further construction from occurring.
 25 And it's expected that the contractor will -- will

22

1 need to remobilize in the spring and -- and finish
 2 up construction into early summer. Commissioning
 3 activities will follow that with a target in
 4 service date of August 1 of next year.

5 Q. Please describe the design that will be
 6 used for the project.
 7 A. The design of the project will be based on
 8 Department of Transportation regulations for
 9 transportation of hazardous liquids by pipeline,
 10 which provides all of the -- all of the
 11 requirements for materials, design pressure,
 12 testing and inspection.

13 Q. Please describe the maximum operating
 14 pressure, temperature and flow rate for the
 15 proposed project.
 16 A. The maximum operating pressure is 2,964
 17 psi, and that's based on -- it's based on
 18 calculated value from the materials of construction
 19 of the pipeline itself. The maximum temperature is
 20 120 degrees Fahrenheit, and the pipeline is
 21 designed to transport up to 200 million standard
 22 cubic feet per day.

23 Q. Please describe DGC's considerations when
 24 routing the proposed project.
 25 A. When routing the project, consideration

23

1 was given to the most direct route to minimize
 2 impacts and cost. We also attempted to follow
 3 existing linear facilities to minimize future land
 4 development impacts.

5 Q. Can you explain DGC or Basin's
 6 consultation with Coteau in the routing of this
 7 project?

8 A. We've had -- during the course of routing,
 9 we've had numerous walk-downs with Coteau. We've
 10 provided them with -- with route maps, shapefiles
 11 for their viewing and have been in regular
 12 communication with them regarding the route.

13 Q. Does DGC have all the easements needed for
 14 this project?

15 A. Easements will be provided from two
 16 landowners for the project. Those are Basin
 17 Electric and Coteau Properties. Currently, we have
 18 drafted those easements, but we are in the process
 19 of working with local utilities on crossing
 20 agreements. And before we finalize the -- the
 21 easements with the landowners, we will finalize our
 22 crossing agreements so that we can account for any
 23 small changes in route that might be required as a
 24 result of that.

25 Q. Will the project be constructed using all

24

1 applicable safety standards and laws?

2 A. Yes.

3 Q. And can you explain what those are,
 4 please?

5 A. Yes. The -- the pipe before it leaves the
 6 factory will go through quality control
 7 inspections. Once -- once construction begins,
 8 we'll have inspectors on-site ensuring that the
 9 contractor is following the specifications and
 10 installing the pipeline correctly.

11 When the pipeline welding occurs, we
 12 will -- we'll have x-ray performed on a hundred
 13 percent of the girth welds. X-ray is a form of
 14 nondestructive evaluation to verify the quality of
 15 the weld.

16 When the pipeline -- when the backfilling
 17 of the pipeline is occurring, we'll also have
 18 inspectors -- I should say after the trench is
 19 opened and before backfilling, the trench will be
 20 inspected to make sure that there's no rocks or
 21 anything in the trench that could potentially
 22 damage the pipe, and the same will be done with the
 23 backfill as that's going in to make sure that
 24 there's no -- no potential damage that could occur
 25 from anything in the backfill.

25

1 And after -- once -- once backfilling is
 2 complete, we'll be hydro testing the line to make
 3 sure that we have integrity of the pipeline.

4 And after that -- and after all of that is
 5 complete, we'll be running a baseline inspection
 6 with a -- with a smart pig to -- to, again, get our
 7 baseline information for future inspections.

8 MS. JACOBSON: Thank you, Mr. Schilke. No
 9 further questions.

10 JUDGE HOGAN: All right. Thank you.

11 Mr. Pelham, do you have any questions?

12 MR. PELHAM: Yes.

EXAMINATION

14 **BY MR. PELHAM:**

15 Q. Good morning, Mr. Schilke.

16 You had testified that as to the easements
 17 there's two landowners and indicated that the draft
 18 of those easement documents was being prepared and
 19 perhaps to account for potential route changes due
 20 to crossings with the utilities. Any other issues
 21 in obtaining those easements aside from what you've
 22 testified to?

23 A. No.

24 Q. And when do you anticipate having that
 25 completed?

26

1 A. We are in the process of working on the
 2 utility crossings now which -- anticipating
 3 occurring within -- or being finalized within the
 4 next month and the easements would be shortly
 5 thereafter.

6 Q. And you testified as to the motor-operated
 7 valves that can be remotely activated. I'm
 8 wondering if you could just take me through the
 9 process of how they're remotely activated, who can
 10 do that, who's monitoring, those types of things.

11 A. The -- the valves can be remotely operated
 12 by the control room at Dakota Gasification
 13 Company's Great Plains Synfuels Plant. In the
 14 event of any emergency, they would be able to do
 15 that.

16 Q. And the control room is -- what other
 17 pipelines are they -- would they be monitoring?

18 A. I can -- they're monitoring their existing
 19 CO₂ pipeline. We do have Claude O'Berry testifying
 20 later who is much more familiar with the operations
 21 of the pipeline and he may be better suited to
 22 answer that.

23 Q. Yeah. And -- and I should have said that
 24 at the beginning. If there's any questions that
 25 another witness would be more appropriate, don't be

27

1 bashful. Just let me know and that happens all of
2 the time.

3 Any idea whether or not there's backup
4 power to these motor-operated valves?

5 **A.** Yes, we have UPS system capable of
6 operating those valves.

7 **Q.** As to the well sites themselves, those
8 have to be permitted by another agency; correct?

9 **A.** Yes.

10 **Q.** And that state agency is the Industrial
11 Commission; is that right?

12 **A.** Correct.

13 **Q.** All right. And if you could just tell the
14 Commission where -- just generally where the status
15 of that -- that permitting process is at.

16 **A.** That -- that permitting process is in
17 the -- basically the development of the -- of the
18 application right now. We are just finishing up a
19 test well to get some information relevant to those
20 permit application documents. It's anticipated
21 that we will be submitting that application likely
22 this fall.

23 **Q.** And one of the commissioners has -- has
24 noted that the line is proposed to be crossing land
25 that is -- that has a mine permit for mining. I'm

28

1 just wondering if you're able to testify or comment
2 on any issues that interplay with this proposed
3 project and the existing permit.

4 **A.** I don't -- I'm not able to comment on
5 that.

6 **Q.** Do you know whether or not another witness
7 here today can testify as to that?

8 **A.** I -- I do not believe so.

9 **Q.** Okay.

10 **A.** I -- the question had been asked about the
11 consultation with Coteau and the process, and so we
12 have -- we have made them aware of the route.

13 **Q.** Okay. Any consultation with the
14 Commission's reclamation division on this project
15 that you're aware of?

16 **A.** Not that I'm aware of.

17 **Q.** And my understanding is -- and it's one of
18 the exhibits -- there's a conditional use permit
19 from Mercer County, the county commission; correct?

20 **A.** Correct.

21 **Q.** Any townships require any type of
22 permitting that you're aware of?

23 **A.** Not that I'm aware of.

24 **Q.** Do you know whether or not any townships
25 have zoning authority in Mercer County, if --

29

1 **A.** Not that I'm aware of, and Kevin Solie,
2 one of the other witnesses, can comment on that
3 additionally.

4 **Q.** Fair enough. Emergency response, fair to
5 say that's Mr. O'Berry's territory?

6 **A.** Correct.

7 **Q.** You testified as to construction and --

8 and the anticipated timeline for that, and you

9 testified, sir, that -- and correct me if I'm

10 wrong, but I understood your testimony that winter

11 conditions set in, construction's going to stop and

12 then restart when conditions allow in the spring.

13 Any plans for winter construction on this project?

14 **A.** Not at this time.

15 **Q.** Okay. And when you say "not at this

16 time" -- and the reason I'm asking is because

17 typically the Commission will look at the standards

18 for winter construction. If -- if there are -- if

19 the plans do change, does the company commit to

20 coming to the Commission to consult with it as to

21 methods to be used for winter construction?

22 **A.** Yes.

23 **Q.** Topsoil separation, any -- what are the

24 plans for topsoil separation?

25 **A.** We intend to separate the topsoil. We

30

1 have taken soil borings in the location, and
2 topsoil thickness is about 12 inches or less --

3 **Q.** Okay.

4 **A.** -- throughout the route.

5 **Q.** And as far as after the -- assuming the

6 project's approved and the line is installed, what

7 is anticipated by the company to do in terms of

8 reclamation after in terms of soil and replanting,

9 those types of things?

10 **A.** Yes. We'll -- we'll be replanting as soon

11 as we're able to following construction of the

12 line. We'll be using either a seed mixture

13 approved by the PSC or requested by the landowners.

14 **Q.** Again, the only landowners here we're

15 talking about are Basin Electric and Coteau mines;

16 correct?

17 **A.** Correct.

18 **Q.** Do you know if any of the land is used for

19 farming or agricultural purposes at all?

20 **A.** There -- the majority of it is either

21 pastureland or kind of an existing utility corridor

22 which is not -- not used for any agriculture.

23 **Q.** Okay. And the pastureland that's used,

24 any -- and I'm just wondering, if you know, whether

25 or not -- do you know whether or not that

31

33

1 pastureland is leased or rented to -- to folks or
 2 is that --
 3 **A.** I don't know the status of that.
 4 **Q.** Fair enough.
 5 Agency contacts, is that -- are you able
 6 to testify to that or is that another --
 7 **A.** That would be Mr. Solie.
 8 **Q.** Fair enough.
 9 Same with the environmental --
 10 environmental and cultural issues?
 11 **A.** Yes.
 12 **Q.** Okay. In your prepared -- your testimony
 13 that's Exhibit 2, I believe that there is a comment
 14 about -- about wetlands. Are you able to testify
 15 as to wetlands at all or plans?
 16 **A.** Yes.
 17 **Q.** My understanding is that there are some
 18 wetlands on the project. Is it the company's
 19 intention to bore those areas?
 20 **A.** Yes. There is one wetland on the project
 21 and our intention is to cross that by boring.
 22 **MR. PELHAM:** Mr. Schilke, thank you for
 23 your testimony, and Mr. Schock may have some
 24 questions for you.
 25 **MR. SCHOCK:** Just a couple quick ones.

1 And what's the depth of cover that you
 2 intend for the land?
 3 **A.** Minimum of 4 feet.
 4 **Q.** Okay. And is it going to be consistent
 5 for the 12-inch and 6-inch portions?
 6 **A.** Yes.
 7 **MR. SCHOCK:** That is all I have. Thank
 8 you.
 9 **JUDGE HOGAN:** All right. Commissioner
 10 Fedorchak.
 11 **EXAMINATION**
 12 **BY COMMISSIONER FEDORCHAK:**
 13 **Q.** Great. Good morning, Mr. Schilke. Could
 14 we back up a little bit? I'd like to hear a little
 15 more about just the project in general. And I know
 16 it's out of the scope of this hearing and -- and
 17 the siting criteria, but I'd like to know more
 18 about the actual storage of the CO₂. Can you just
 19 give us kind of like an overview of that? How were
 20 those sites selected? How far down will it be?
 21 You know, just tell us a little bit about the
 22 actual --
 23 **A.** Sure.
 24 **Q.** -- end game --
 25 **A.** Sure.

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34

1 **EXAMINATION**
 2 **BY MR. SCHOCK:**
 3 **Q.** Morning.
 4 **A.** Good morning.
 5 **Q.** Are there any rural residences, businesses
 6 or anything of the like within 500 feet of the
 7 route of the proposed line?
 8 **A.** Yes. Coteau's office building is right at
 9 500 feet from the line.
 10 **Q.** Okay.
 11 **A.** And then DGC, the plant site there
 12 obviously where we start, is --
 13 **Q.** Okay. Do you --
 14 **A.** -- in close proximity.
 15 **Q.** Do you intend to get a waiver from Coteau
 16 for that -- for crossing within the 500 feet?
 17 **A.** Yes, I believe -- I believe Exhibit 10 is
 18 the waiver that we've received from Coteau.
 19 **Q.** Okay. And just kind of looking at the
 20 map, it looked like there was a couple other kind
 21 of almost farmstead-looking things towards the
 22 north end of the project. None of those are
 23 within -- are either occupied or within 500 feet?
 24 **A.** No.
 25 **Q.** No. Okay.

1 **Q.** -- the whole goal of this.
 2 **A.** The -- the initial sites were selected
 3 based on modeling. That modeling was based on
 4 information that was available from the water
 5 disposal wells at DGC along with some additional
 6 wells that had had cores taken, so a good
 7 understanding of the geology in the area.
 8 Based on that, modeling was performed to
 9 see where the CO₂ -- how far the CO₂ would be
 10 expected to expand, the amount of CO₂ that would be
 11 expected to be injected in each well site. And --
 12 and that's how the number and the spacing of the
 13 well sites was selected, for the most part.
 14 The other consideration for the well sites
 15 was just accessibility and topography there. The
 16 depth -- a lot of the details of the wells are
 17 still pending. That is -- that's going to be
 18 determined as we -- as we get the results back from
 19 the test well. Injection will -- is anticipated to
 20 be into the -- into the Broom Creek Formation,
 21 which is approximately a mile down.
 22 **Q.** Okay. And what are those -- what are the
 23 formations, is it -- that keeps it in? What keeps
 24 the CO₂ in?
 25 **A.** The confining layers, the Amsden is

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1 beneath, I would have to go back and look to see
 2 what the top -- what the upper confining layer is.
 3 Q. Okay. Is there -- for the permitting of
 4 those wells, is there a hearing process like this,
 5 a public hearing process; do you know?
 6 A. I'm not sure. We have -- because we have
 7 not, obviously, experienced a project like this
 8 before, we -- we have a consultant that we're using
 9 that's more familiar with the process for drilling
 10 wells and has been in consultation with the EERC
 11 and the NDIC in the process for that.
 12 Q. Okay. So are these the first CO₂ wells
 13 permitted in North Dakota?
 14 A. I believe there are at least --
 15 Q. Some test --
 16 A. -- there's at least one application in for
 17 a storage facility permit, I believe.
 18 Q. Yeah. So --
 19 A. But there have been other -- yes, there
 20 have been other test wells --
 21 Q. Test wells.
 22 A. -- that have been drilled. Yes.
 23 Q. Have there been test wells in this area,
 24 or are they further west?
 25 A. There was -- is it the Flemmer well, I

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1 think, was a test well that was drilled a number of
 2 years ago, but the others that I'm aware of have
 3 not been in the immediate vicinity.
 4 Q. Okay. And you guys are going to be
 5 operating that well too; right?
 6 A. Correct.
 7 Q. Yeah.
 8 Is this a new line of work for you or have
 9 you -- are you familiar with this already? Do you
 10 have past experience?
 11 A. With the sequestration or the pipeline?
 12 Q. Sequestration.
 13 A. The sequestration is new to us.
 14 Q. Okay. So how do you go about getting the
 15 people to do it? I mean, where -- have you hired
 16 new staff? I mean, who -- how do you beef up for a
 17 new project like this?
 18 A. I'm probably -- I'm not the right person
 19 to answer that question, but the -- the intention
 20 for operating the wells themselves again is to rely
 21 on the consultants -- it would be the same
 22 consultant that we have hired to -- to develop the
 23 application for the storage facility and to drill
 24 the wells and to -- and to install the
 25 infrastructure at the well sites themselves.

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1 Q. Okay. And what can you tell me about
 2 that -- that consultant? Anything? Are they a
 3 national consultant? Where does their -- you know,
 4 where does their experience come from?
 5 A. Their experience comes largely from oil
 6 and gas development. They do have experience with
 7 development of -- of CO₂. They also are, again, in
 8 consultation with -- with the EERC and relying on
 9 their knowledge for -- for a lot of the modeling
 10 and the specifics of CO₂ sequestration.
 11 Q. Yeah. Well, it's one of those new areas
 12 in the state. I know it's a new industry. I think
 13 there's a lot of curiosity and questions amongst
 14 the public, too, about what does this mean. You
 15 know, how safe is it, what are the concerns, any
 16 information like that.
 17 So being as Basin is on the cutting edge,
 18 you guys are always really good about providing,
 19 you know, a lot of public outreach and that sort of
 20 thing, but in this particular project, I've tried
 21 to get more information about some of those things
 22 and I'm not -- it's a little hard to find. So
 23 hopefully you guys will be -- as you go through
 24 that well permitting process, there will be a lot
 25 more information about that available to the

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1 public, and, you know, leaders, et cetera, just so
 2 we all can learn because it is going to be a big
 3 deal in our state for many years to come, I think,
 4 judging by the movement nationwide for CO₂
 5 sequestration, and North Dakota supposedly having
 6 very good geology for that.
 7 So I look forward to having you guys help
 8 teach us how this all works and help -- help us get
 9 better educated about that. And then the NDIC,
 10 too, since they -- the Industrial Commission is the
 11 one doing all of those permits, they'll have to be
 12 involved in that as well.
 13 So you did say that -- oh, one more
 14 question on that. Have you done communication with
 15 the community? Has Basin had community meetings
 16 about this project, or what kind of community
 17 outreach have you done in regards to this
 18 particular new project?
 19 A. We have not -- we have not had a lot of
 20 community outreach as far as this project goes --
 21 Q. Okay.
 22 A. -- to date.
 23 Q. But do you have some planned in the
 24 future?
 25 A. I believe we'll be -- as -- as we get more

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1 details on the storage facility, now that the test
 2 well is done, I believe we'll be in a better
 3 position to provide details about -- about the CO₂
 4 storage portion of the project.
 5 Q. Okay. Very good. So and I will just say,
 6 like, we're -- this process is strictly the impact
 7 of the pipelines and their development and their
 8 operation. It really has nothing to do with the
 9 storage and just, say, we approve this permit, it
 10 doesn't necessarily mean that it's a slam dunk for
 11 you guys to get the wells either. I mean, they're
 12 not tied together in any way. So I just want to
 13 emphasize that that's my understanding, and I would
 14 assume it's your guys' understanding too.
 15 A. Yes.
 16 Q. All right. Let's see here. How -- you
 17 mentioned that the -- you gave the numbers for how
 18 much it will sequester and the potential was 200 --
 19 60 million cubic SCF. Is that how you -- how is
 20 the term --
 21 A. Yes.
 22 Q. -- for CO₂ storage? What is it?
 23 A. Yep. 60 million standard cubic feet.
 24 Tons is also a -- a unit that's used, and it's
 25 about 31 -- that's the equivalent of about 3100

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1 tons.
 2 Q. Okay. But it has the potential for up to
 3 200?
 4 A. Correct.
 5 Q. Do you see it expanding to that some day
 6 or is this -- is it --
 7 A. DGC currently has contracts for CO₂ that's
 8 captured with customers in Canada that they're
 9 using it for enhanced oil recovery. If those -- if
 10 those contracts ever expired or were not renewed,
 11 there is potential that that additional volume
 12 could then be sequestered here.
 13 Q. I see. And how much -- what numbers would
 14 that involve? Like how much is that?
 15 A. That is about 90 million that's under
 16 contract right now.
 17 Q. Okay. So even with both, you'd still have
 18 a little bit more room?
 19 A. Correct.
 20 Q. And what percent of the CO₂ that's emitted
 21 at this facility in total will be sequestered by
 22 the time -- assuming that you get your permits for
 23 the wells and this moves forward, how much are you
 24 capturing or sequestering?
 25 A. I would have to get back to you on exactly

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1 where that's at.
 2 Q. Do you have any -- is it half, 20 percent?
 3 A. More than half.
 4 Q. More than half.
 5 A. Yes.
 6 Q. Okay. And what's the -- what are the
 7 restraints for capturing more? Like, how do you
 8 get to a higher percentage of the capture?
 9 A. I -- I do not know much about the process
 10 upstream that is capturing the CO₂.
 11 Q. Okay. Okay. I'll let you off the hook.
 12 Let's see here. Will this -- will
 13 these -- now getting to the pipeline itself. Will
 14 these branch lines -- or will these lines function
 15 much differently than the CO₂ line that you've been
 16 operating for years that goes up to Canada?
 17 A. No. That will be very similar to that
 18 operation.
 19 Q. Very similar to that.
 20 Have you had any trouble with that line?
 21 A. I'll let Mr. O'Berry comment on that.
 22 Q. Okay. And then will the branch lines
 23 function -- in this particular facility, will the
 24 branch lines function any differently than the main
 25 line?

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1 A. No. The only difference would be that it
 2 would be -- there would be more potential for a
 3 branch line to be temporarily taken out of service
 4 if there was any well maintenance or anything like
 5 that, where the main line would -- would likely be
 6 operated --
 7 Q. Okay.
 8 A. -- all the time.
 9 Q. All right. Just a couple more questions
 10 from me. So this -- did you say you have all the
 11 easements or you're close to having them with --
 12 A. We have --
 13 Q. -- Coteau?
 14 A. We have drafts of the easements that we've
 15 been working on to date. They'll just be finalized
 16 once we've made sure that there are no small
 17 adjustments required with the utility crossings.
 18 Q. Okay. And then because you're crossing
 19 the mines, and it looks like on the maps one of
 20 them is, you know, an active mine and then the
 21 other is land that maybe is permitted and could be
 22 mined, I'm assuming once you put the pipeline in,
 23 they can't mine that land around it. So how big of
 24 a setback do you have around the lines for
 25 preventing mining?

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1 **A.** Most of these well sites have been sited
 2 in mine areas where the mining is all complete.
 3 **Q.** Okay. So it's already reclaimed in those
 4 areas?
 5 **A.** Yes.
 6 **Q.** All right. Is that all of them?
 7 **A.** Well site one is in a little bit of an
 8 active area, but it would not -- it would not
 9 prevent any -- any mining from occurring in that
 10 area either.
 11 **Q.** Okay. You mean the mining is already
 12 done?
 13 **A.** It's through it. There's just mining
 14 activity that's going on in the area where there's
 15 a haul road nearby and things like that.
 16 COMMISSIONER FEDORCHAK: I see. Okay.
 17 All right. I think that -- that concludes my
 18 questions so far, so thank you.
 19 THE WITNESS: Okay.
 20 JUDGE HOGAN: Commissioner Christmann.
 21 **EXAMINATION**
 22 **BY COMMISSIONER CHRISTMANN:**
 23 **Q.** Most of my questions are going to be for
 24 Kevin, but I do have a couple. In your testimony,
 25 did you say as part of your, you know, early

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1 evaluation you looked at -- at how far the CO₂ would
 2 migrate if this was developed?
 3 **A.** Yeah, that is more on the storage facility
 4 permit side, that we evaluated that, but that --
 5 that is what dictated how close the well sites
 6 could be to one another.
 7 **Q.** Okay. And -- and you're right, it's more
 8 on that side, but this is the application that's
 9 ahead of the other one so we're going to get those
 10 questions.
 11 **A.** Yeah.
 12 **Q.** So if it's going to be public anyway, do
 13 you mind telling us, like, if -- if you look at
 14 this as all one area, these six well sites, how far
 15 you expect CO₂ to migrate from there?
 16 **A.** I would -- yeah, I would need to get back
 17 to you on what the preliminary one is. I don't
 18 recall exactly how far it's expected to -- to go
 19 outside of the -- the well location that's shown
 20 there. Based on the -- the modeling will be redone
 21 now that we have information coming in from the
 22 test well that will really solidify that.
 23 **Q.** And, again, for people that are here or
 24 anyone who listens to this, that's not a factor to
 25 me in this case because we're not siting the wells,

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1 but it makes life easier if we can answer people's
 2 questions when they call us because they usually
 3 don't like to hear that they should just call
 4 someone else.
 5 **A.** Right. Understood.
 6 **Q.** Thank you.
 7 And then I -- you answered some of these
 8 questions for Commissioner Fedorchak, but unlike
 9 miles or barrels or acres or something like that, I
 10 really am challenged to keep a perspective on,
 11 like, tons of CO₂ when it floats around in the air.
 12 And so whether you're talking about tons or
 13 standard cubic feet, stay on one or the other here,
 14 and what -- how much is the total that DGC creates?
 15 **A.** That -- that is -- that's the number I had
 16 committed to Commissioner Fedorchak that I would
 17 have to check into to see what the total is. We're
 18 currently capable of capturing about 150 million
 19 standard cubic feet per day.
 20 **Q.** Tell me the number again.
 21 **A.** 150 million standard cubic feet per day.
 22 **Q.** Okay. And how much is that contract to
 23 Canada or is that proprietary?
 24 **A.** The -- the volume is around 90 million
 25 standard cubic feet per day.

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1 **Q.** And how much did you say that this well
 2 system could take?
 3 **A.** Initially, it would be for 60 million
 4 standard cubic feet per day, but the line is sized
 5 for up to 200 million standard cubic feet per day,
 6 the main line.
 7 **Q.** Okay. 60 is what it's planned for now.
 8 And what did you say was the maximum?
 9 **A.** It's designed for up to 200 million
 10 standard cubic feet per day.
 11 **Q.** And how long could you do that?
 12 **A.** That we'll also have a better
 13 understanding of once we complete the modeling.
 14 **Q.** But I'm -- we must be talking decades or
 15 something to justify the --
 16 **A.** Yeah, that's --
 17 **Q.** -- you wouldn't be doing this for just a
 18 few years; correct?
 19 **A.** That's the anticipation is that we would
 20 be -- we would -- the facility would be adequate
 21 for many years of sequestration.
 22 COMMISSIONER CHRISTMANN: Okay. Thank
 23 you. I have no other questions.
 24 THE WITNESS: Thank you.
 25 JUDGE HOGAN: Commissioner Kroshus.

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1 **EXAMINATION**

2 **BY COMMISSIONER KROSHUS:**

3 Q. All right. Good morning. Well, I have,

4 as you imagine, I have a number of curiosity

5 questions as well. I'm going to try and rein it in

6 to some things that might be a little more -- would

7 be more applicable to what we have to look at, but

8 I agree the information would be helpful in terms

9 of some of the questions asked.

10 But just to clarify one thing so people

11 who may be listening aren't under the wrong

12 impression, the CO₂ that will be injected, that is a

13 product of -- one of the products produced through

14 the synthesizing of the coal into natural gas at

15 DGC; is that correct?

16 A. Correct.

17 Q. So it's not from carbon capture equipment

18 in terms of people may look at it in terms of from

19 emissions. It's not produced from emissions;

20 correct?

21 A. Correct.

22 Q. But through the chemical process itself?

23 A. Correct.

24 Q. And I think that's important. This is

25 very unique in that -- from that standpoint because

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1 there aren't many facilities in the country

2 producing natural gas from coal. This -- DGC is

3 unique in that respect, so it's a little different

4 than capturing it from the stack and then injecting

5 it. So am I on the right track?

6 A. Yes, you are.

7 Q. Okay. Just wanted to make sure I was

8 talking about the right -- right things.

9 Going to the pipeline itself, CO₂ is very

10 corrosive; correct?

11 A. Yes.

12 Q. And you'll meet the PHMSA requirements as

13 set forth by that entity; correct?

14 A. Yes. That's correct.

15 Q. What is the life span of the pipe?

16 A. There is -- I guess we don't have a

17 definite life span for it. It will be a very long

18 time. We'll be doing regular inspections and

19 upkeep on the -- on the pipeline. So it's not

20 anticipated that we'll have any significant

21 corrosion issues or anything like that. Also based

22 on the operation of the existing pipeline -- CO₂

23 pipeline that's transporting the same quality gas,

24 really don't expect to have much for corrosion

25 issues there.

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1 Q. So would it be fair to say that it's

2 similar modeling to that existing infrastructure

3 that's moving CO₂ to Canada?

4 A. Yes. That's correct. We used DGC's

5 existing specifications for that line as -- as the

6 baseline.

7 Q. And how long has that pipeline been in --

8 in use?

9 A. I believe about 20 years, but Mr. O'Berry

10 could confirm that.

11 Q. So it would be fair to say that you have

12 extensive experience with --

13 A. Yes.

14 Q. -- with an existing CO₂ pipeline that's

15 been in use for approximately two decades?

16 A. Yes.

17 Q. Okay. You had mentioned an existing

18 utility corridor on some of the pipeline corridor;

19 is that correct?

20 A. Yes.

21 Q. Are there other facilities within that

22 existing utility corridor?

23 A. We have identified the rural water

24 pipelines in the area, rural electric lines in the

25 area. There's aboveground transmission facilities

50

1 in the area. We also have some raw water pipelines

2 from -- from the lake to AVS through that corridor

3 as well.

4 Q. Okay. So some of it would run parallel

5 and then you also mentioned crossings which would

6 be different?

7 A. Yes. Yes. We'd run parallel where we

8 could and cross where we -- where we needed to to

9 avoid any aboveground obstructions or terrain.

10 Q. Okay. And then one final question. At

11 this point in time, you're targeting -- is it

12 September 1 to begin construction, ideally?

13 A. The end -- the end of September.

14 Q. End of September. Do you have contractors

15 in place to begin that work or are you still

16 under --

17 A. We don't. We'll be actually issuing --

18 issuing the project for bids likely next week.

19 Q. Okay. Well, I always like to put a plug

20 in for regional labor and the folks closer to home,

21 so I hope -- hope they're at the table and getting

22 an opportunity -- it's not a requirement of the

23 siting process although -- or part of statute --

24 and that preference will be given to projects

25 utilizing local labor, and I certainly like to see

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1 that as well.

2 **A.** Yes.

3 **Q.** And they do a very good job.

4 COMMISSIONER KROSHUS: So no other

5 questions. Thank you.

6 THE WITNESS: Thank you.

7 JUDGE HOGAN: All right. Ms. Jacobson, do

8 you have any redirect?

9 MS. JACOBSON: No, Your Honor.

10 JUDGE HOGAN: Mr. Pelham? Mr. Schock, any

11 other questions?

12 MR. PELHAM: No, Your Honor.

13 MR. SCHOCK: No, Your Honor.

14 JUDGE HOGAN: Any further commissioner

15 questions. Mr. -- or Commissioner Christmann.

16 **FURTHER EXAMINATION**

17 **BY COMMISSIONER CHRISTMANN:**

18 **Q.** This would certainly be just a

19 technicality, but we hate to have anybody get

20 caught in a technicality. You said that you either

21 had or are getting a waiver from Coteau for this

22 being within 500 feet. Is it outside of 500 feet

23 from Antelope Valley or -- I mean, I know it's

24 Basin Electric too, but do you need one? Is that

25 any way separate that you might need a waiver

52

1 there?

2 **A.** It's -- it's beyond 500 feet from the --

3 from the buildings at Antelope Valley Station.

4 COMMISSIONER CHRISTMANN: Okay. Thank

5 you.

6 JUDGE HOGAN: Commissioner Fedorchak.

7 **FURTHER EXAMINATION**

8 **BY COMMISSIONER FEDORCHAK:**

9 **Q.** You mentioned wanting to start

10 construction end of September. Do you anticipate

11 starting this project before you complete the well

12 permits?

13 **A.** Yes.

14 **Q.** Okay. And if you don't get the well

15 permits, just -- so you're pretty confident in

16 these well permits?

17 **A.** Yes. Yes.

18 COMMISSIONER FEDORCHAK: Okay. All right.

19 JUDGE HOGAN: Commissioner Kroshus.

20 Are you done?

21 COMMISSIONER FEDORCHAK: I'm done.

22 JUDGE HOGAN: Okay. Commissioner Kroshus.

23 **FURTHER EXAMINATION**

24 **BY COMMISSIONER KROSHUS:**

25 **Q.** I did miss one question. I think it's

53

1 pretty easy, but I believe it's well site 1 that is

2 an area currently being mined; is that correct?

3 **A.** Yeah. It's -- it's outside of active

4 mining area but it's the closest to the active

5 mining area.

6 **Q.** Any concerns with being able to inspect

7 that portion of the line, the regular right-of-way

8 inspections that would be required?

9 **A.** No, there should not be any issues with

10 that.

11 **Q.** Okay. No conflict?

12 **A.** No.

13 COMMISSIONER KROSHUS: Okay. Thank you.

14 JUDGE HOGAN: All right. That's all the

15 questions for you. Thank you.

16 THE WITNESS: Okay. Thank you.

17 Ms. Jacobson, do you want to call your

18 next witness?

19 MS. JACOBSON: Thank you, Your Honor.

20 Mr. Kevin Solie.

21 JUDGE HOGAN: Good morning, Mr. Solie.

22 MR. SOLIE: Good morning.

23 JUDGE HOGAN: Can I have you spell your

24 last name for the record.

25 MR. SOLIE: Yes. S, as in Sam, o-l-i-e.

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1 JUDGE HOGAN: And you were in the -- you

2 were in the room this morning when I went through

3 the penalties for perjury in the state of North

4 Dakota?

5 MR. SOLIE: Yes, Your Honor.

6 JUDGE HOGAN: And do you understand what

7 perjury is?

8 MR. SOLIE: I do.

9 (Witness sworn.)

10 JUDGE HOGAN: All right. Thank you.

11 Go ahead, Ms. Jacobson.

12 MS. JACOBSON: Thank you, Your Honor.

13 **KEVIN SOLIE,**

14 being first duly sworn, was examined and testified

15 as follows:

16 **EXAMINATION**

17 **BY MS. JACOBSON:**

18 **Q.** Please provide your name, business address

19 and occupation.

20 **A.** My name is Kevin Solie. I work for Basin

21 Electric at 1717 East Interstate Avenue in

22 Bismarck, North Dakota. I'm employed as a senior

23 environmental compliance administrator.

24 **Q.** And please describe your professional

25 experience and educational background.

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1 **A.** Sure. I've got three degrees from the
 2 University of North Dakota. I've got a bachelor's
 3 in geology as well as a master of science in
 4 geology and a bachelor's in geological engineering.
 5 I've been working for Basin Electric since about
 6 2007, and I've worked on a number of infrastructure
 7 projects, including transmission lines, pipelines,
 8 wind farms and combustion turbines. And if I'm
 9 counting right, I think this is the sixth PSC that
 10 I've testified at.

11 Let's see. I guess prior to my employment
 12 at Basin Electric, I worked for the North Dakota
 13 Department of Health, now the Department of
 14 Environmental Quality for about 16 years as an
 15 environmental scientist there. I'm also a retired
 16 commissioned officer of the North Dakota Army
 17 National Guard. And I'm a registered professional
 18 engineer in North Dakota and in Wyoming.

19 **Q.** Thank you, Mr. Solie. In your work at
 20 Basin Electric, have you come to work on
 21 DGC-related projects as well?

22 **A.** Yes, I have.

23 **Q.** What have been your responsibilities with
 24 this project?

25 **A.** Well, really for the contents and

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1 preparation of the application. Because of the
 2 short timeline on this one, we actually prepared
 3 the application in-house, which was a little bit
 4 unusual. Of course, we had help from a couple of
 5 consultants for cultural resources and some of the
 6 wildlife issues. And also, you know, there's
 7 certainly coordination between different groups
 8 within Basin Electric and DGC and with Coteau.

9 **Q.** What is the size of the corridor for the
 10 project?

11 **A.** Our corridor width is 200 feet.

12 **Q.** Can you please explain why it's
 13 appropriate for the Commission to approve that size
 14 of corridor?

15 **A.** Sure. We opted for a 200-foot -- or
 16 proposed a 200-foot corridor so it would allow for
 17 the possibility of a bit of kind of fine-tuning
 18 adjustment of the route as we moved forward. The
 19 permanent right-of-way is only 50 feet, so we have
 20 a little bit of latitude.

21 **Q.** What is the status of the SHPO
 22 concurrence?

23 **A.** The SHPO concurred on the 20th of May, I
 24 believe it is, and they found that the project
 25 would not affect any significant sites. And I

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1 could add that the -- the SHPO concurrence letter
 2 is tab 5 in your hearing binder.

3 **Q.** Are there any other cultural resource
 4 issues with the proposed project?

5 **A.** There -- really none. There was one
 6 cultural -- one recorded cultural resource site
 7 that was located kind of adjacent to and maybe
 8 touching -- touching the corridor just a little
 9 bit. That cultural site had been previously
 10 mitigated. So that means that archeologists went
 11 out there, documented the site and, you know,
 12 recorded it, took pictures and the like, and then
 13 that -- after mitigation, then the site was removed
 14 due to surface mining.

15 **Q.** Does the proposed route contain any
 16 exclusion areas?

17 **A.** There are no exclusion areas.

18 **Q.** Does the proposed route contain any
 19 avoidance areas?

20 **A.** There are three potential -- or three
 21 avoidance areas. There are the two businesses that
 22 Mr. Schilke mentioned. DGC naturally because
 23 that's the origin of the pipeline, and we're --
 24 really depends on who measures, but right at about
 25 500 feet or just a little less with the Coteau

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1 offices.

2 **Q.** And you heard the earlier testimony
 3 regarding the waivers for that. Can you please
 4 describe DGC's efforts to obtain those?

5 **A.** Right. Both DGC and Coteau have provided
 6 consents or waivers for the less than 500 feet
 7 criteria, and those are included as tabs 9 and 10
 8 in the hearing binder.

9 **Q.** Are there reasonable alternatives to not
 10 impact those avoidance areas?

11 **A.** Well, we're really very constrained by the
 12 existing infrastructure and it -- well, of course,
 13 we can't be farther away from DGC and, again, with
 14 the kind of routing that was done in close
 15 coordination with Coteau, you know, we kind of
 16 settled in on the route that we have.

17 **Q.** Can you discuss any comments received from
 18 the North Dakota Game and Fish on native grassland
 19 issues?

20 **A.** Sure. The Game and Fish sent kind of
 21 their standard letter and kind of recommended
 22 avoiding areas of native prairie to the extent
 23 practicable. And I think really for our project,
 24 since most of the area has been disturbed by
 25 surface mining and it's highly industrialized,

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1 there are, you know, a big shop and a couple of
 2 industrial plants, there really isn't much native
 3 prairie to impact, frankly.
 4 Q. Are there any geological unstable areas
 5 within the corridor or route?
 6 A. There are none. We consulted the kind of
 7 recently published maps from the North Dakota
 8 Geological Survey published just in 2021, so they
 9 have a series of 1 to 24,000 scale landslide maps,
 10 and there are no landslides mapped, you know, in
 11 the corridor or even in the study area.
 12 Q. Did DGC analyze other potential routes?
 13 A. We analyzed, I think, variations on a
 14 theme. The route is very short. The location of
 15 the wells is set. The takeoff at DGC is set. So
 16 there weren't many alternatives. Again, as
 17 Mr. Schilke mentioned, the route was kept really as
 18 short as possible to avoid impacts. I will say
 19 that our route, again, was refined quite a bit, you
 20 know, over the period from when we sent out our --
 21 what I'd call the scoping letter to when we
 22 submitted our application.
 23 And so the -- the folks working on the
 24 routing were able to avoid some wetlands, avoid
 25 some shelterbelts and the like to kind of optimize

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1 the route.
 2 Q. Did the environmental studies for the
 3 project address any concerns for threatened or
 4 endangered species?
 5 A. Our consultant, Western EcoSystems
 6 Technologies, looked at all the different
 7 endangered species and North Dakota's species of
 8 concern, and there really are -- are no impacts or
 9 no concerns.
 10 Q. To date have any state or federal agencies
 11 expressed concern with the project?
 12 A. They have not.
 13 Q. Are there any federally managed lands
 14 within the corridor?
 15 A. There are no wildlife refuges, no
 16 grassland or wetland easements in the corridor.
 17 Q. Did DGC obtain a conditional use permit
 18 from Mercer County for this project?
 19 A. Yes. Yes, we did. We just recently last
 20 week received the conditional use permit from
 21 Mercer County on the 7th.
 22 Q. Has DGC received all the permits needed to
 23 begin construction of the proposed project?
 24 A. There would be a couple more for the
 25 pipeline, including a construction stormwater

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1 permit, which kind of a prerequisite --
 2 prerequisite of that is the preparation of a
 3 SWPPP -- a SWPPP plan. And so typically Basin
 4 Electric would have the construction contractor
 5 prepare that because they would be managing kind of
 6 the situation on the ground.
 7 There would also likely be another general
 8 permit from the DEQ. It would be for the discharge
 9 of hydrostatic testing water, which is typical.
 10 Mr. Schilke mentioned testing the pipeline. And
 11 then, you know, maybe the kind of odd kind of minor
 12 crossing permit from the county for crossing a
 13 road.
 14 Q. Are you familiar with the North Dakota
 15 Industrial Commission's storage permit process?
 16 A. I have studied it and it is new to all of
 17 us.
 18 Q. Okay. Are you aware if there's any public
 19 hearing or public comment opportunities with that
 20 process?
 21 A. Yes, there is. There is a public --
 22 public hearing required for the storage facility
 23 permit.
 24 Q. What is the status of the wetland
 25 delineation report?

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1 A. Initially for the application, I think we
 2 identified nine areas that were potentially
 3 wetlands, and they were kind of based on old
 4 national wetland inventory mapping. And since most
 5 of the area has been disturbed by mining, most --
 6 most no longer exist. They'd all been kind of
 7 removed, mitigated.
 8 And just, I guess, within the last maybe
 9 three weeks here, we did get our report from --
 10 from West, and there were two areas that were
 11 identified in the field as actually being wetlands.
 12 One of them is just on the edge of our 200-foot
 13 corridor and it would not be impacted by
 14 construction. And then there is one that entirely
 15 crosses the corridor. I think it's in the
 16 northeast quarter of Section 11, and that one, as
 17 Mr. Schilke mentioned, would be -- would be bored
 18 and avoided.
 19 Q. What is the status of the tree and shrub
 20 inventory?
 21 A. There is -- again, preliminary desktop
 22 work has been done and in our application there are
 23 no areas of evergreen forest, wetland forest or --
 24 there are not many trees out there. And we are
 25 waiting on kind of the final -- final report from

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1 West.

2 MS. JACOBSON: Thank you, Mr. Solie. No

3 further questions.

4 JUDGE HOGAN: All right. Thank you.

5 Mr. Pelham, do you have any questions?

6 MR. PELHAM: Yes.

7 **EXAMINATION**

8 **BY MR. PELHAM:**

9 Q. Good morning, Mr. Solie. Thanks for being

10 here this morning.

11 As to the wetland delineation report, that

12 wasn't part of the original application, was it?

13 A. It was not.

14 Q. Okay. And are there plans by DGC to

15 provide a copy of the -- of the report?

16 A. We certainly could.

17 Q. Okay. Is it -- you indicated that -- I

18 think in the last three weeks. Is it completed,

19 it's done, the report?

20 A. Yeah, it's kind of a -- I guess what I

21 would say a letter report. It's about three

22 pages --

23 Q. Fair enough.

24 A. -- and some shapefiles.

25 Q. No issue with providing that to the

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1 Commission?

2 A. None at all.

3 Q. All right. You testified, sir, about

4 landslides not being in the area and prior studies

5 having been consulted. Any consultation with the

6 North Dakota Geology -- Geological Survey?

7 A. We did not send a consultation letter to

8 the geological survey. They're frankly not on --

9 on the list of agencies. But as I mentioned, I did

10 consult their recently prepared maps from 2020 --

11 2021, excuse me, and there are none present.

12 Q. Okay. Any -- I know you said you didn't

13 send a letter. Any phone calls or any emails or

14 anything like that between that agency and DGC?

15 A. No.

16 Q. Okay. In your prepared testimony as well

17 as in your testimony today, sir, you testified that

18 there would be use of the AC boring for one -- one

19 area of the proposed line. Can you tell us a

20 little bit more about what's planned, the length of

21 that? If you're able, where that is specifically?

22 A. I can tell you where it is on the map. If

23 we turn to tab 8, hearing map, in the hearing

24 binder. The wetland actually is -- well, we could

25 maybe go back to the application. But it's really

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1 in the northeast quarter of Section 11, and if I

2 could maybe use kind of our map key here, kind of

3 roughly use -- in the C2 block. If you see the

4 letters across the top, so roughly C2.

5 Q. And as far as the -- I understand it's

6 been described as a small area. I mean, are you

7 able to define what "small" is?

8 A. I haven't, you know, measured it, but I

9 would -- you know, using any specific tool, but --

10 Q. Fair enough.

11 A. -- I would say it's about 400 feet.

12 Q. Fair enough. In your prepared testimony,

13 impacts to trees would be minimal. Could you

14 further explain what that impact would be.

15 A. Just really to shrubs because there are --

16 are really no trees. Again, it's generally

17 reclaimed mine land, and I don't think trees have

18 really had a chance to -- to regrow. So there are

19 some areas of shrubs that would be disrupted by the

20 pipeline construction, and like I mentioned, we're

21 waiting on that report from our consultant.

22 Q. Fair enough. And the company, as I

23 understand, has filed as an exhibit the

24 certification related to order provisions which

25 includes the tree shrub mitigation plan?

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1 A. That's correct. That's included at

2 items -- tab 6.

3 Q. Okay. And I can't recall which

4 commissioner asked, but there was a question, I

5 think, that was deferred to you related to any --

6 any issues with the existing line that DGC operates

7 to Canada. Are you able to further expound or

8 explain that? Any -- any issues with that line

9 that the company has had?

10 A. Regarding the safety or --

11 Q. Right. Regarding the safety, the

12 operation, leaks, anything along those lines.

13 A. I would -- I would defer to Mr. O'Berry on

14 that.

15 Q. Oh, I see. I had misunderstood. Or it's

16 still too early.

17 As to emergency response, that would be

18 Mr. O'Berry, I believe. Any need for a Section 10

19 or 404 permit from the U.S. Army Corps of Engineers

20 on this project?

21 A. No, sir.

22 Q. Consultation with the Fish and Wildlife

23 Service, I believe there was mention of the

24 suggestion to contact the Audubon Wetland

25 Management District. Do you know whether or not

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1 that was done?
 2 **A.** It was not. We, I guess, control all of
 3 the land and have good title to it, so we know
 4 there are no grassland or wetland easements on it.
 5 And that was the -- the recommendation to see if
 6 there were any --
 7 **Q.** Sure.
 8 **A.** -- service properties there.
 9 **Q.** Aside from the agency response letters
 10 that have been included in the application as well
 11 as exhibits, any additional agency response letters
 12 that the company has received?
 13 **A.** There have been none.
 14 **MR. PELHAM:** Mr. Solie, thank you for your
 15 time. I don't have any other questions for you.
 16 Mr. Schock may have some questions for you, though.
 17 **MR. SCHOCK:** I have none. You have been
 18 very thorough in your testimony. Thank you.
 19 **JUDGE HOGAN:** Commissioner Fedorchak.
 20 **COMMISSIONER FEDORCHAK:** Thank you.
 21 **EXAMINATION**
 22 **BY COMMISSIONER FEDORCHAK:**
 23 **Q.** Mr. Solie, I just have one question. And
 24 that is Mr. Schilke talked a little bit about
 25 mining in the one area where there's still active

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1 mining even -- and that this line shouldn't impact
 2 that. Can you provide a little more information
 3 about that?
 4 **A.** Actually not. What I can say is that
 5 there's been close coordination with Coteau in the
 6 siting, the locating of the wells as well as the --
 7 the pipeline, and so I guess my assumption then is
 8 that it -- it, you know, certainly works for them.
 9 It's consistent with their plans.
 10 **Q.** If you look at the hearing map -- and
 11 maybe this picture is from a while ago.
 12 **A.** I think the air photo is dated.
 13 **Q.** Okay.
 14 **A.** Yeah. So the background is -- yes.
 15 **Q.** The -- the ground doesn't look like it
 16 does in this photo anymore?
 17 **A.** I don't believe so.
 18 **Q.** Okay. Well, and I do see some Coteau
 19 folks here, so maybe they'll be stepping up later
 20 in the public comment part perhaps.
 21 **COMMISSIONER FEDORCHAK:** All right.
 22 That's it for me. Thank you.
 23 **JUDGE HOGAN:** Commissioner Christmann.
 24
 25

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1 **EXAMINATION**
 2 **BY COMMISSIONER CHRISTMANN:**
 3 **Q.** This first one I think you've clarified
 4 but I just wanted to make sure. In the application
 5 I was confused. It seemed like it was a little bit
 6 back and forth between whether SHPO had signed off
 7 on this and agreed that there is no significant
 8 impact, but then there was always this one
 9 mitigated site. And -- and so the May 20, I think
 10 you said, sign-off letter that included that --
 11 **A.** Correct.
 12 **Q.** -- site --
 13 **A.** Correct.
 14 **Q.** -- as well; right?
 15 **A.** Yes. So there had been a bit of
 16 back-and-forth with the SHPO. You know, given that
 17 most of the land had been previously disturbed by
 18 mining, you know, kind of the thought was that not
 19 much of it would have to be surveyed for cultural
 20 resources because it had already been done and
 21 previously disturbed. So we started with the
 22 Class 1, kind of the literature search, and then
 23 based on that, our consultant, Metcalf, made a
 24 recommendation to the SHPO. The SHPO concurred
 25 that, you know, we would survey essentially

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1 2.33 miles of the corridor, and some of it was kind
 2 of duplicate, but it was just kind of to keep it
 3 simple. So -- and to take another look at the --
 4 the site. It's, I think, 32ME299 is the site
 5 designation, so that was included in the
 6 correspondence in consultation with the SHPO. Yes.
 7 **Q.** Okay. Then you had mentioned having the
 8 county conditional use permit, I think you said,
 9 last week and still needing the stormwater permit,
 10 but that would be prepared by the contractor?
 11 **A.** That's correct.
 12 **Q.** And I suppose I should know this being
 13 from here, but does -- do you need a separate
 14 permit from the County Weed Board?
 15 **A.** Not to my knowledge, no.
 16 **Q.** That's covered by the County Commission?
 17 **A.** Correct. We went through planning and
 18 zoning on June 17. There were questions and
 19 answers regarding reclamation. And then, again, on
 20 the Commission hearing on the 7th.
 21 **Q.** Okay. So related to that -- I'm on
 22 page 23 of the application. It really concerned me
 23 especially because this runs parallel to a road.
 24 "Vegetative maintenance could not be conducted more
 25 frequently than every three years, with the

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1 exception of a ten-foot wide corridor."
 2 Is -- is that what this means? I don't
 3 think the county is -- or anyone else is going to
 4 really like having tall grasses and stuff growing
 5 there year after year. As you said, it's not
 6 really an area where there's a lot of wildlife for
 7 that tall growth, and I do not understand that
 8 concept. I look at that and what I see is ten
 9 years from now a bunch of Canada thistle.
 10 **A.** Sure. Right. And I think the
 11 consideration, when we were preparing the
 12 application there, is there are always concerns in
 13 grassland areas about migratory birds and nesting
 14 birds and so you have to kind of time your mowing,
 15 but I think -- and I can maybe, again, defer to
 16 Mr. O'Berry regarding maintenance of the
 17 right-of-way, if it could be done more often.
 18 **Q.** Because, I mean, there's even requirements
 19 that landowners keep the ditches mowed.
 20 **A.** Right. Well, and the other thing that, I
 21 guess, I could add is that after construction,
 22 the -- the land will go back to its existing use
 23 and I think there are, again, according to the --
 24 our application and the GIS data, there were --
 25 about 17 percent I think is actually cultivated

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1 field, so those will go back to being fields. The
 2 pastureland will go back to being pastureland.
 3 **Q.** Okay. And I thought I had one more. Oh,
 4 just usually in pipeline cases we discuss this and
 5 I didn't see anything in the application. Is Basin
 6 committed to making sure that the contractors clean
 7 equipment if they -- when they come in and then if
 8 they do cross any noxious weed areas or anything
 9 like that to avoid spread?
 10 **A.** I'd -- I'd have to defer to Mr. Schilke
 11 who handles the contracting, but I -- you know, I
 12 would expect that that's -- that's kind of standard
 13 practice.
 14 **Q.** Okay.
 15 **A.** And it could be written into the contract.
 16 COMMISSIONER CHRISTMANN: Thank you. No
 17 other questions.
 18 JUDGE HOGAN: Commissioner Kroshus.
 19 **EXAMINATION**
 20 **BY COMMISSIONER KROSHUS:**
 21 **Q.** Can you clarify -- because I may have
 22 written it down wrong and the application is pretty
 23 clear, but the survey and construction corridor
 24 200 feet, temporary right-of-way 75, and permanent
 25 at 50?

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1 **A.** That's correct.
 2 **Q.** Just to make sure I heard that correctly.
 3 I want to say thank you for your service.
 4 Greatly appreciate it, as well as any other
 5 veterans in the room.
 6 **A.** Glad to do my part.
 7 **Q.** And then final question, this is a tough
 8 one, you said this is your sixth hearing so you're
 9 counting. Is that a good thing or is that a bad
 10 thing.
 11 **A.** I was just -- just a curiosity, I guess.
 12 **Q.** Is it akin to another tour of duty or is
 13 it --
 14 **A.** No, it's -- no.
 15 COMMISSIONER KROSHUS: All right. Thank
 16 you. No other questions.
 17 JUDGE HOGAN: Ms. Jacobson, did you have
 18 any redirect?
 19 MS. JACOBSON: No, Your Honor.
 20 JUDGE HOGAN: Mr. Pelham or Mr. Schock,
 21 any other questions?
 22 MR. PELHAM: No, Your Honor.
 23 MR. SCHOCK: No, Your Honor.
 24 JUDGE HOGAN: Any other Commission
 25 questions? All right. That's all the questions

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1 for you, Mr. Solie. I think we'll take a short
 2 break. It's, according to my watch, 9:49. Let's
 3 reconvene at 10 o'clock.
 4 (Recessed at 9:50 a.m. and reconvened at
 5 10:02 a.m.)
 6 JUDGE HOGAN: All right. We are back on
 7 the record and we're going to get started again.
 8 It's 10:02 a.m.
 9 Ms. Jacobson, do you want to call your
 10 next witness?
 11 MS. JACOBSON: Thank you, Your Honor.
 12 Mr. Claude O'Berry.
 13 JUDGE HOGAN: Good morning, Mr. O'Berry.
 14 MR. O'BERRY: Morning.
 15 JUDGE HOGAN: Can you spell your name for
 16 the record, please.
 17 MR. O'BERRY: Claude O'Berry, last name O,
 18 apostrophe, B-e-r-r-y.
 19 JUDGE HOGAN: And you were in the room
 20 earlier this morning. Did you hear me go through
 21 the penalties for perjury in the state of North
 22 Dakota.
 23 MR. O'BERRY: Yes, I did.
 24 JUDGE HOGAN: Do you understand what
 25 perjury is?

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1 MR. O'BERRY: Yes.
 2 (Witness sworn.)
 3 JUDGE HOGAN: Thank you. Go ahead,
 4 Ms. Jacobson.
 5 MS. JACOBSON: Thank you, Your Honor.
 6 **CLAUDE O'BERRY,**
 7 being first duly sworn, was examined and testified
 8 as follows:
 9 **EXAMINATION**
 10 **BY MS. JACOBSON:**
 11 Q. What is your name, business address and
 12 occupation?
 13 A. My name is Claude O'Berry. I'm the
 14 pipeline superintendent working with Dakota
 15 Gasification Company. Address is 420 County Road
 16 26, Beulah, North Dakota.
 17 Q. And what is your employment history?
 18 A. I've been working with DGC for 38 years.
 19 Of that 38 years, the last 25 have been in a
 20 managerial position, as the pipeline superintendent
 21 since -- for the last 9 years. In 2018 I took over
 22 the role as -- also as a protection services
 23 superintendent.
 24 Q. Were you involved in the commissioning of
 25 the startup of DGC's current CO₂ pipeline?

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1 A. Yes. At 205 miles going up into Canada, I
 2 supervised the commissioning and startup of that
 3 line. Operated it. And also two natural gas
 4 projects as well.
 5 Q. What have been your responsibilities in
 6 connection with the proposed project?
 7 A. I've been working in an advisory role
 8 during the design and the construction until the
 9 commissioning starts.
 10 Q. And can you describe how you will maintain
 11 the proposed project?
 12 A. Yeah. We will incorporate the same
 13 maintenance program that we've been using on our
 14 existing CO₂ pipeline. 26 times a year in two-week
 15 intervals we do a right-of-way inspection, which we
 16 are looking for erosion, leaks, ground disturbance
 17 and any new construction within our right-of-way.
 18 Twice a year we exercise and lubricate all
 19 our emergency valves to make sure they're working
 20 properly.
 21 In order to control the -- or our
 22 corrosion control program, every three years we
 23 inspect all the aboveground piping and equipment,
 24 check for atmospheric corrosion. Annually we test
 25 our cathodic protection program which monitors the

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1 coating of our underground piping so we can get
 2 ahead if there are any issues with the coating.
 3 Every five years we will run an MFL tool or a smart
 4 pig, which we check for metal loss, diameter flaws
 5 or internal and external metal loss.
 6 Q. Can you describe the health risk to people
 7 in the vicinity of the pipeline?
 8 A. Yes. In the unlikely event of a
 9 significant release, the health risk would be
 10 asphyxiation from the CO₂ and poisoning by the H₂S.
 11 Q. Since DGC's current CO₂ pipeline has become
 12 fully operational -- operational, have you had any
 13 recordable releases of CO₂?
 14 A. No.
 15 Q. And can you describe DGC's pipeline
 16 emergency response and safety program?
 17 A. So we have a written emergency response
 18 plan that would deal with the event of a pipeline
 19 emergency. We use the incident command system
 20 which is nationally recognized and used by all
 21 first responders in the country.
 22 Our shift superintendent that's on shift
 23 would be the incident commander. He would set up
 24 his command center and a protection service control
 25 center.

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1 We also have a fully equipped ambulance,
 2 fire department, hazmat response trailer, and my
 3 protection services staff, they're all certified
 4 EMTs, which means they can provide medical first
 5 aid and medical transport.
 6 Our fire brigade, they're all trained in
 7 industrial firefighting, high-angle rescue, and
 8 also they're hazmat technician level trained.
 9 We also have a reverse 911 system where we
 10 enter all the names and numbers of every -- of all
 11 the businesses and residents within a mile of our
 12 pipeline, and if there was an event, we'd be able
 13 to launch out phone calls to all the residents in
 14 that area, 25 calls a minute -- or at a time go out
 15 and they need to make a response. We would give
 16 them the information, instructions on the emergency
 17 and what would need to be done, be it a shelter in
 18 place or evacuation, whatever that would be.
 19 We're also as a company a member of the
 20 North Dakota Pipeline Association, which is an
 21 organization comprised of North Dakota pipeline
 22 companies who are dedicated to the safety of
 23 pipeline -- safety of the pipeline. And what we do
 24 is we provide information to excavators, residents,
 25 visitors, emergency responders and public officials

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1 and give them information about the pipelines. And
 2 I personally have staff that conducts several of
 3 these meetings in towns close to the -- close to
 4 our pipeline area.

5 We also provide specific training to local
 6 first responders, be it fire departments, about our
 7 emergency plan specific to CO₂ or the natural gas
 8 pipeline. Get them -- let them know the hazards of
 9 it and how we would work together in case there was
 10 an emergency.

11 And we would incorporate this pipeline
 12 into our whole training program probably within a
 13 year.

14 Q. So earlier you talked about the health
 15 risks of people -- to people in the area of the
 16 pipeline. Can you talk about how you're mitigating
 17 that risk, especially as it relates to third
 18 parties that may be working in and around the
 19 pipeline?

20 A. Sure. Actually, the most common cause of
 21 leaks or explosions on a gas pipeline is a
 22 third-party excavation. So what we do, all our
 23 pipelines are registered within the North Dakota
 24 One Call system, which means that any work within a
 25 2,500-foot corridor of our pipeline, we'll get

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1 notified of the company that's working in that
 2 area, any jobs that they're doing so we can reach
 3 out to them and we can discuss where our pipeline
 4 is in relation to their work that they're going to
 5 do.

6 If there's an actual crossing or any
 7 construction within our 50-foot right-of-way, I
 8 have staff that are there the whole time that the
 9 work is going on just to protect our -- protect our
 10 pipeline.

11 Also, the design of this new pipeline has
 12 got the similar design as our original one which is
 13 a computer-based LDS system, or leak detection
 14 system, which will be monitored 24 hours a day by
 15 our control room, and they would be able to -- if
 16 there was -- if there was an alarm or they sensed
 17 there was a leak, they would be able to remotely
 18 close all the valves within that area.

19 Q. Mr. O'Berry, earlier today there were some
 20 questions from the commissioners and previous
 21 testimony about how the right-of-way is maintained,
 22 how weeds are taken care of. Can -- since you are
 23 the pipeline superintendent, can you address that,
 24 please?

25 A. Yeah. Like I said, you know, we monitor

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1 the pipeline, the right-of-way every two weeks.
 2 But after original construction, it is our goal to
 3 return all that topsoil to the original state. And
 4 I have -- on our staff we have licensed pesticide
 5 holders, certificate holders, so they'll go out and
 6 they can spray for any noxious weeds that will show
 7 up within that right-of-way. We would -- you know,
 8 landowners would request it at times or we would --
 9 part of like this section here, since it's our
 10 property, Coteau's property, we would maintain it
 11 just like we do all the rest.

12 MS. JACOBSON: Thank you. No further
 13 questions.

14 JUDGE HOGAN: Mr. Pelham, any questions.

EXAMINATION

16 **BY MR. PELHAM:**

17 Q. Good morning, Mr. O'Berry, I think I have
 18 a couple questions, but Ms. Jacobson has done a
 19 good job of asking you most of my questions.

20 Could you just go into a little bit more
 21 detail about this electronic leak detection system
 22 that's in place?

23 A. Sure. It's -- like I say, it's computer
 24 based, but what it's measuring, it's measuring the
 25 flow going into the pipe and the flow coming out of

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1 the pipe and pressure points within there. So it's
 2 going to monitor -- if it senses it -- it's like 2
 3 or 3 percent difference of what's going in and
 4 what's coming out, it'll sense if there's something
 5 wrong. Five minutes you'll get an alarm, and then
 6 during that time it'll keep calculating, and then
 7 you'll get a 10-minute alarm, 30-minute alarm. The
 8 longer it goes, the more pinpoint it can get. I
 9 mean it can get within feet of where that leak is
 10 actually at.

11 Q. And that's all coming up on -- in the
 12 control room? Is it on a monitor? Is it lights,
 13 alarms? What's going on?

14 A. Yeah. We have a separate -- the control
 15 room operator has a separate screen dedicated just
 16 to the LDS system so they can monitor the flows and
 17 the pressures at all times.

18 Q. And approximately how many people are in
 19 the control room at any given time? Does it vary
 20 or is it standard?

21 A. Yeah, they have two -- two operators on
 22 the control room 24 hours a day.

23 Q. And then remotely activated valves can be
 24 closed at that time by the control room personnel?

25 A. Yes, sir.

83

1 Q. And in the event that that fails, what's
2 the plan then at that point? Is there someone that
3 goes out to physically close the valves?

4 A. Yeah, I got my pipeline staff on day
5 shift, and then we train that group on night shift
6 to where the areas are at, what they would need to
7 do. That's all part of our operator qualification
8 program.

9 Q. Does DGC anticipate hiring any additional
10 employees for this particular project?

11 A. At this time I'm not aware of any.
12 There -- it's not really labor intensive once we
13 get it in service.

14 Q. Fair enough. And then I believe you
15 testified as to training. Can you -- can you just
16 elaborate on -- on the training that personnel
17 emergency responders would receive for this
18 proposed project?

19 A. Okay. We would get with the fire
20 department, Mercer County ambulance, show them
21 where the route is at. Let them know that, okay,
22 if there's an issue here, here's what we would do
23 as a company and if we would need your
24 assistance -- since this line is so close to the
25 plant, we would probably more than likely handle

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1 any emergencies within that. You know, we've got
2 205-mile line that goes up into Canada, so I've got
3 contracts with like Crosby Fire Department, Tioga
4 Fire Department to help assist if we do have any
5 problems. We do individual training with our
6 procedures and we go over that.

7 Q. And if you could just talk in general
8 terms, if you can, as to how often that sort of
9 local training is done specific. As to this
10 project, how often do you anticipate that local
11 training being done?

12 A. We do the training annual, and then we
13 also have a public awareness program where we're
14 always doing mail-outs and brochures for everybody
15 that lives within our pipeline corridor just to
16 make them aware of the pipeline, and we share the
17 Call Before You Dig program with them as well.

18 MR. PELHAM: Thank you, Mr. O'Berry. I
19 don't have any other questions for you. Mr. Schock
20 may.

21 MR. SCHOCK: Just a few.

22 **EXAMINATION**

23 **BY MR. SCHOCK:**

24 Q. Morning.

25 A. Morning.

85

1 Q. So how does CO₂ work? So if it leaks or
2 escapes, is it heavier than air or lighter than
3 air? Can a --

4 A. Yeah, good question. Yes, CO₂ is actually
5 heavier than air, so it's going to linger in the
6 low-lying areas. At atmospheric pressure, the CO₂
7 will eventually turn to dry ice because it'll get
8 cold. And that's what -- carbon dioxide is
9 actually dry ice, you know, at a certain
10 temperature or pressure, which is atmospheric
11 pressure.

12 So what would happen would be if we was to
13 have a leak, the first indication would probably be
14 frost on top of the grass and then you might see a
15 vapor coming out. And then eventually when it gets
16 down to 700 pounds, it's just going to seal up and
17 turn to a block of ice in the pipe.

18 Q. Oh, wow. Okay. 700 psi?

19 A. Yes, sir. So we run the line at 27, 28
20 hundred pounds. So we get down to that -- that's
21 called a critical phase. It'll turn from a gas to
22 a liquid.

23 Q. Sure. So then does that cause damage if
24 it -- if it goes down to that level?

25 A. Not necessarily. It's not like the same

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1 as freezing water where it expands, you know, so
2 much. It doesn't expand any. It'll just sit in
3 there.

4 Q. Okay. Okay. And have you ever had any
5 leaks on the existing CO₂ line?

6 A. Since we've been in operation, no, we've
7 had no significant leaks.

8 Q. Okay. And then you talked about the --
9 the 26 times per year, two-week inspections that
10 are -- that would be done of the line. Are those
11 done on foot, aerial? Kind of how are those --

12 A. Aerial. We utilize Basin's airplane, so
13 every two -- two weeks we fly it. Yes, sir.

14 Q. And what altitude is that?

15 A. They try and -- 6, 7 hundred feet. I like
16 to keep them low enough so they can look at our
17 signs and notify any -- you know, see any kind of
18 damage. And if they notice anything, they'll call
19 back to the plant and we'll -- we'll send out a
20 technician out to that area to see what it looks
21 like for sure, so --

22 Q. Okay. And that's just the pilot and I'm
23 assuming and an assistant that's in the plane with
24 him to actually do the --

25 A. The pilot is just flying it along -- we've

87

1 got it on a GPS. He's flying along the corridor,
2 and I've got an operator up there that's watching
3 the whole time.

4 Q. Okay. And then is there any, like, video
5 taken during that flight as well or is it -- it's
6 just what they can see?

7 A. Just what they see at the time, yeah.

8 MR. SCHOCK: That's all the questions.

9 Thank you.

10 JUDGE HOGAN: Commissioner Fedorchak.

11 COMMISSIONER FEDORCHAK: Yeah.

12 **EXAMINATION**

13 **BY COMMISSIONER FEDORCHAK:**

14 Q. Thank you, Mr. O'Berry. You mentioned
15 that it will basically frost the grass or whatever,
16 but what happens -- what's your sign of leak in the
17 summer when it's --

18 A. Same thing. It would frost because the
19 temperature is that much colder than the
20 atmosphere. It would freeze the humidity in the
21 atmosphere.

22 Q. How long --

23 A. You would see frost.

24 Q. -- will it stay, though? I mean, if it's

25 a hundred degrees outside, it's not going to stay.

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1 A. You would see either the frost or you
2 would see a vapor because it's turned to -- it's
3 turned to a gas, you know, the cold -- it's cold.

4 Q. Okay. So -- and that vapor would be kind
5 of constant as long as there was a leak?

6 A. Yes. Yep.

7 Q. Okay. What about a slow leak? Is that --
8 does that present a danger, a slow -- a slow leak
9 that maybe was less detectable?

10 A. The range of -- that it could be dangerous
11 would be a lot smaller because the leak is smaller.

12 See, originally we did a dispersion model on our
13 pipeline, so if there was going to be a leak and it
14 was a significant leak, you know, we had it
15 measured out to 1,900 feet would be a danger zone
16 for full -- full release.

17 Q. Okay.

18 A. Okay. So we made our corridor a mile on
19 either side so that we would cover everything. But
20 the smaller the leak, the less exposure there would
21 be.

22 Q. Okay.

23 A. That's about the best I could put it.

24 Q. Is it a lot harder to detect, though?

25 A. Our leak detection system is incredibly

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1 sensitive. We tested it when we first put our line
2 in service 20 years ago. I was up in Tioga and I
3 opened up the valve to a flare system, and within
4 30 seconds they got the alarm that there was
5 something going on. And I didn't have a -- there
6 was very little flow at that time. So it is very
7 sensitive. It'll pick up anything, most anything.

8 Q. Okay. How close is the nearest residence
9 or residences to the line and are there some within
10 the mile setback of -- or did you say mile on
11 either side of the line?

12 A. We have a couple residences within a mile
13 of our existing pipeline right now. Our existing
14 pipeline runs and then it turns west, and the new
15 line's going to keep going to the north. So those
16 people are within our programs. They're notified,
17 you know, and they're aware of our pipeline, and we
18 will inform them of the new pipeline. There's no
19 residence within the new right-of-way, just the
20 building and office building of Coteau.

21 Q. Right. But within the mile -- is there
22 residences within the mile of the new pipeline?

23 A. I don't believe so, but we haven't looked
24 at that yet. You know, we will -- when we go in
25 and incorporate the program, then we'll -- once we

90

1 get the line in, then we'll start looking at what
2 we have in the area.

3 Q. Okay. And then do you know what the
4 near -- or could you get to us what the nearest
5 residence is to this line or a map that's showing
6 the nearest residences? The -- the ones I'm seeing
7 are either too close or too far away to be able to
8 identify where actual inhabited residences would
9 be.

10 A. Okay. So are you asking me if I'd be able
11 to provide you that?

12 Q. Yeah.

13 A. Yes, I could.

14 Q. Okay. And then what will the company be
15 doing to -- to reach out to those folks once you
16 identify them?

17 A. Yeah, we have a -- we have a program where
18 we would go out to them, meet them personally, take
19 down some information, contact information, how
20 many people live in the residence so that we would
21 know that -- if there was an emergency, we would
22 know ahead of time where the people live, who lives
23 there, if they needed special assistance especially
24 to evacuate or whatever the case may be.

25 Q. Okay.

91

1 **A.** I have a company on contract that every
 2 year we do that along our whole pipeline, all the
 3 way up to Canada. They go out and they update all
 4 our information for the residents we have, and then
 5 at the same time they look for any new -- they go
 6 around to all the counties, get new building
 7 permits to find out if there's new houses possibly
 8 in our area, so we keep track of it that way.

9 **Q.** Okay. Good. Let's see. Is there an
 10 emergency response plan required for the wells
 11 themselves? Is there a whole different type of
 12 emergency oversight and response system for wells
 13 or not?

14 **A.** I'm not aware of any. We do have two deep
 15 wells on plant site that we've never had any
 16 problems with. Once you isolate the flow going in,
 17 you're constantly monitoring the well. The -- it's
 18 called an annular space in the -- in the wellhead
 19 pressure, so you're constantly monitoring that.
 20 And as those pressures get closer, that tells you
 21 you've got a leak someplace within the well, and
 22 then you can isolate it and make repairs.

23 **Q.** I see. And then where -- where did you
 24 say your operation center is? Is it right at DGC?

25 **A.** Yes, it's at the plant site.

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1 **Q.** And how many people did you have there,
 2 employees?

3 **A.** In my department --

4 **Q.** No.

5 **A.** -- or total --

6 **Q.** Manning the operations center.

7 **A.** Oh, we have -- well, two control room
 8 operators and two field operators in the control
 9 room. So there would be four total around the
 10 clock. And then I have four pipeline technicians
 11 myself.

12 **Q.** Okay. So tell me about the squad that
 13 mans that 24-hour center. Is there eight people,
 14 like two -- two sets of the four, or how do you --

15 **A.** Oh, okay. I'm sorry. There would be two
 16 on the control room, control center, control boards
 17 watching, and then they've got two field techs --

18 **Q.** Okay.

19 **A.** -- that would take care of -- and in the
 20 off hours, if there was an issue that they had to
 21 block something in or they will block things in,
 22 those two would go out and take a look at --
 23 physically out in the field. And they would call
 24 in our plant staff as well to help out.

25 **Q.** Okay. Then how many people do you have

93

1 rotating through the operation center to keep it
 2 24 hours? How many staff total?

3 **A.** Okay. We've got four shifts, so there
 4 would be 16 people --

5 **Q.** I see.

6 **A.** -- plus supervisor on each shift.

7 **Q.** Got it.

8 **A.** And then also we have our protection
 9 services group and our fire brigade. They're all
 10 trained in responding to any emergencies too. So
 11 they would be able to go out to that well site and
 12 block it in if it needed to be.

13 **Q.** Okay. Oh, shoot, I just had another quick
 14 question. Four shifts. Oh, how many -- how many
 15 pipelines do they monitor? I mean, this is, you
 16 know, in addition to the -- this new CO₂ line and
 17 the old one. What other lines --

18 **A.** Okay.

19 **Q.** -- do they monitor?

20 **A.** We have our CO₂ line going into Canada. We
 21 have our natural gas line that goes down to Hebron,
 22 which is 36 miles. And then we had recently added
 23 another natural gas pipeline going over to AVS.

24 **Q.** Okay.

25 **A.** So it would be those three pipelines that

94

1 they constantly monitor.

2 **COMMISSIONER FEDORCHAK:** Very good. I
 3 think that's it for me. Thank you.

4 **JUDGE HOGAN:** Commissioner Christmann.

5 **EXAMINATION**

6 **BY COMMISSIONER CHRISTMANN:**

7 **Q.** Is this steel -- is it the same kind of
 8 steel as what we see on oil pipelines. Or is it
 9 some kind of special --

10 **A.** It's a special grade, but it is carbon
 11 steel. I mean, it's -- our -- I don't know the
 12 thicknesses of a wellhead or all the oilfield
 13 stuff, but ours at the maximum is half-inch-pipe
 14 wall thickness.

15 **Q.** And -- and so how do we avoid the
 16 corrosiveness -- we always hear of the
 17 corrosiveness --

18 **A.** Yeah.

19 **Q.** -- regarding CO₂, or is -- is that the
 20 stuff they use in the capture process and so once
 21 it's in the pipeline that's not an issue?

22 **A.** Yeah. CO₂ in itself is not corrosive in
 23 the right elements. If you add water, then you
 24 would have carbonic acid. Well, our CO₂ is -- is
 25 dry, I mean really dry. We've been running it up

95

1 into Canada for 21 years now, and we had some
2 corrosion coupons inserted into the pipe, and every
3 six months we check these corrosion coupons, and
4 that would tell you if you had any -- kind of like
5 in your water tank, how you have those that tell
6 you if you've got corrosion on the inside, we've
7 never experienced any corrosion markings at all on
8 any of our corrosion coupons. But at the same time
9 we run pigs to check for wall thickness.

10 And then part of our -- we have -- our
11 line is cathodically protected as well as has a
12 fusion bond, an epoxy on the outside of the pipe to
13 keep it away from the ground, because the ground is
14 a negative -- you know, negative and the pipe's
15 going to try and -- positive is going to try and
16 send electricity down to the -- so if you had any
17 bare pipe, it takes the metal with it and that's
18 how you get thin-walled pipe.

19 So if you put a coating on it and then you
20 put this cathodic protection, which is adding
21 electricity to it, changing the -- the properties
22 of the pipe, now everything goes towards the pipe
23 and you don't have that corrosion.

24 Q. Thank you for explaining that.

25 A. That's kind of deep. I'm sorry.

96

1 Q. No, we've been --

2 A. This is my life.

3 Q. -- talking about cathodic protection of
4 pipelines for a long time and we have engineers and
5 people that understand it, and --

6 A. Yeah.

7 Q. -- that's the best explanation I've heard
8 of it.

9 A. That's how you keep pipes in the ground
10 for 50 years. You know, it's -- cathodic
11 protection is really something, and then the
12 coating that you have on there. And you constantly
13 monitor it. If there's ever a nick in the coating
14 and we know about it, we'll go in and we'll repair
15 the -- we'll repair the coating.

16 Q. Thank you. And then the last thing, and
17 Kevin pretty well explained it, but this concern
18 that I had about not doing vegetative maintenance,
19 so you said that a lot of it would be grazed or
20 farmed or something anyway so it is done, but are
21 there going to be areas near the road where it is
22 let grow -- and you had indicated that you have
23 spraying people and so the noxious weeds part is
24 still out, but I still do have the last remaining
25 concern about just excessive long growth that ends

97

1 up capturing snow and being a problem for traffic
2 on it --

3 A. Well, I think the ditches --

4 Q. -- on years when we actually get snow.

5 A. Yeah. Well, I think the ditches are
6 maintained by the county or something. We don't --
7 you know, we're away -- well away from the ditches.

8 Q. Is this that far away?

9 A. Yeah, we're far enough away from them.
10 We're not in -- within the county's right-of-way.

11 We're off of that. So we'll maintain our own
12 right-of-way, but we'll -- like I said, we watch
13 for noxious weeds and any type of growth like that,
14 but --

15 COMMISSIONER CHRISTMANN: Okay. Very
16 good. Thank you.

17 THE WITNESS: Yep.

18 JUDGE HOGAN: Commissioner Kroshus.

19 **EXAMINATION**

20 **BY COMMISSIONER KROSHUS:**

21 Q. Good morning, Mr. O'Berry.

22 A. Morning.

23 Q. Earlier I had asked the first witness
24 about -- I think I had phrased it as two decades,
25 you had said 21 years, so approximately two decades

98

1 of experience with the existing CO₂ pipeline. Were
2 there any modifications to the design of this
3 pipeline as a result of lessons learned or just
4 having 20-plus years or 21 years of experience?

5 A. I can't really think of anything major
6 that we had changed. Our line's been pretty -- no
7 problems, you know, running up into Canada. One of
8 the few things would be our main line pressure is
9 going to be from the plant to the well, the first
10 well. After that we're going to branch off and
11 we're going to be able to take those lines out of
12 service, so that makes our pigging operation a
13 whole lot easier than it is if it was all full of
14 pressure. But other than that, there's really --
15 we don't have any -- I like to keep -- I've
16 learned, you know, the less pipe you can have
17 underground, you can monitor it. So as much pipe
18 as we can we keep -- we've got it aboveground on
19 plant site because aboveground -- I don't like to
20 bury small -- small 1- or 2-inch valves because
21 they have a more likely chance of failure. So any
22 small bore piping we always have aboveground now.
23 That would be probably the major thing we've
24 changed.

25 Q. Okay. So in the whole scheme of things,

99

1 nothing terribly significant?

2 **A.** No.

3 **Q.** Which would serve as a testament to the

4 integrity of the existing CO₂ line.

5 **A.** Yeah.

6 **Q.** You had mentioned -- how often do you --

7 what are the intervals again on -- and I know it's

8 in the application -- but the smart pig inspection?

9 **A.** We do that every -- minimum of every five

10 years, five to five and a half years.

11 **Q.** Seems like a long time. Do you think

12 that's -- that's frequent enough?

13 **A.** It is if you have no issues. If we was to

14 run a pig and all of a sudden we come across some

15 corrosion someplace, we would evaluate what the

16 corrosion source is, and if it's something we need

17 to monitor more often, we would pig more often.

18 Yes.

19 **Q.** What are the physical symptoms for an

20 individual who is in proximity to a leak?

21 **A.** H₂S would cause headaches, dizziness and

22 depending on the -- the amount of exposure.

23 **Q.** Okay. And then going back to that, that's

24 a part of the training with local emergency

25 response as well because --

100

1 **A.** Yeah.

2 **Q.** -- they would be integrated into the

3 response plan, as I believe you mentioned?

4 **A.** Yes.

5 **Q.** They would show up on-site as well?

6 **A.** Yeah. That's part of to protect

7 themselves and the -- and the people that were

8 going out to -- you know, during the emergency. We

9 go through all the health hazards and how to -- how

10 you would deal with those specific incidents or

11 health effects.

12 **Q.** And did you say once a year you do -- you

13 have the training exercise as a refresher to those

14 individuals, those entities?

15 **A.** Yeah, we do -- once a year we do annual

16 training with all the first responders. Any public

17 is invited to come to it, public officials.

18 Anybody that works around the pipeline, we'll --

19 and then we do more specific about once a year or

20 maybe every two years with the local -- you know,

21 like say Tioga or whatever, the closer to our --

22 the ones that are more involved directly with our

23 pipeline, to be more specific. Because the one

24 training is kind of broad as far as pipeline

25 safety.

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1 **Q.** I see. Okay. Does that include a mock

2 drill?

3 **A.** Yes. We've done several, several mock

4 drills. We do one per shift on our fire brigade,

5 and then we've done several like for the whole

6 plant, if we had a major leak at the plant. We've

7 done a lot of mock drills like that, yes.

8 **Q.** Does that include evacuating the plant?

9 **A.** Yes, we have.

10 **Q.** Okay. So the individuals monitoring the

11 pipeline, so they're within the plant. How do they

12 continue to watch whatever release might be

13 occurring and monitoring if the plant's been

14 evacuated?

15 **A.** Our control rooms are all -- they're

16 explosion proof, and then also we provide fresh air

17 in the event if they had to stay there and operate

18 or watch something, or we have alternate control

19 centers around the plant where they could move to

20 to stay out of the path of, say, if there was a

21 release.

22 **Q.** Okay.

23 **A.** So we would do one of the two things.

24 **Q.** All right. So they're essentially in

25 lockdown but in a safe environment?

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1 **A.** In a safe environment, yes.

2 **Q.** Okay. What is the evacuation corridor?

3 Again, did you -- I believe you said you work with

4 any residence within a mile. In this case there

5 isn't a residence, I believe, within a mile.

6 **A.** Right.

7 **Q.** But what is the evacuation corridor in

8 event of a release?

9 **A.** We would go out to that mile and we would

10 evaluate where the people -- you know, where the

11 people are living. And let's say if there is a

12 west wind and then the people on the west side of

13 the pipeline at that time are okay, we might give

14 them a notification that there's a pipeline

15 emergency, you know, stay at your residence for the

16 time being, and we would evacuate the people

17 downwind of the release.

18 **Q.** Okay. And then even in the event of a

19 large release, did you -- I might have written this

20 down wrong -- did you say 1,900 feet would be the

21 point where it's safely diluted regardless of the

22 size of the leak?

23 **A.** Yeah. And that was at a -- I think it was

24 like a 60 degrees and a 20 mile an hour wind,

25 something --

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1 Q. Sure.

2 A. -- like that, kind of normal conditions.

3 Q. Yeah. Is that the worst -- would that be

4 the worst imaginable condition in terms of --

5 A. Yeah. If we had a total pipeline failure,

6 that would be the corridor.

7 Q. And if you had to pick, okay, at this

8 temperature, this humidity, this wind speed, this

9 would be the worst scenario, that's what the 1,900

10 is based on?

11 A. Yes.

12 Q. Okay.

13 A. And then we've done additional studies

14 because of low-lying areas. So since -- in the

15 20 years, things we've learned, we've also expanded

16 some areas, but we're still within the 1,900 feet,

17 but we just -- just to be on the safe side, we've

18 gone out a little further, so --

19 Q. Almost three times that distance?

20 A. Yes. That we constantly monitor.

21 Q. Because that is one mile of both sides of

22 the centerline of the pipe; correct?

23 A. Yes, sir.

24 COMMISSIONER KROSHUS: Okay. I believe

25 that -- you had answered the questions on the

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1 cathodic protection. That was a very good

2 explanation. That's the best explanation I didn't

3 quite understand I've ever heard in my life. I

4 followed most of it.

5 No other questions. Thank you.

6 JUDGE HOGAN: Ms. Jacobson, do you have

7 any redirect?

8 MS. JACOBSON: Nothing, Your Honor.

9 JUDGE HOGAN: Mr. Pelham or Mr. Schock,

10 any further questions?

11 MR. PELHAM: No, Your Honor.

12 MR. SCHOCK: No, Your Honor.

13 JUDGE HOGAN: Any other commissioner

14 questions?

15 All right. Thank you, Mr. O'Berry.

16 Anything further from the applicant?

17 MS. JACOBSON: No, Your Honor.

18 JUDGE HOGAN: All right. Well, that

19 brings us to our portion of the hearing for public

20 testimony, and I did see a few people raise their

21 hands, so I'll go through just some introductory

22 comments before we start with public testimony.

23 If you wish to testify, I'd ask that you

24 come forward and testify by the microphone like the

25 other witnesses have done this morning. I'd ask

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1 you to state your name for the record and spell it,

2 and if you're representing an entity or group, if

3 you'd please identify that group or entity and your

4 relationship, that would be helpful.

5 Also, public testimony is an opportunity

6 for members of the public to make statements for

7 the Commission. It's not an opportunity to ask

8 questions for the commissioners or the Commission.

9 You may not speak unless you're at the witness

10 table, and we would ask that you not provide

11 answers from the audience.

12 We'd also ask that you don't read anything

13 that somebody else wrote. If you wish to submit

14 something written by somebody else, we can discuss

15 that.

16 And I don't think we're going to have many

17 people testifying, but we'd ask that you avoid

18 repeating any previous testimony. Instead, if

19 you -- you can just indicate whether or not you

20 agree or disagree with that testimony.

21 So is there a volunteer to go first for

22 testimony? All right. Come forward, please.

23 MR. ERICKSON: Hello, my name is Brad

24 Erickson, E-r-i-c-k-s-o-n. I'm the assistant land

25 manager for the Coteau Properties Company.

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1 As you've heard today --

2 JUDGE HOGAN: Before you go any further,

3 I've got to swear you in. I probably should have

4 mentioned that.

5 MR. ERICKSON: Oh, sorry.

6 JUDGE HOGAN: I know you've been sitting

7 here throughout the morning, so you heard me go

8 through the penalties for perjury this morning.

9 MR. ERICKSON: Yep.

10 JUDGE HOGAN: And do you understand what

11 perjury is?

12 MR. ERICKSON: Mm-hmm.

13 (Witness sworn.)

14 JUDGE HOGAN: Thank you. Go ahead.

15 **BRAD ERICKSON,**

16 being first duly sworn, was examined and testified

17 as follows:

18 **STATEMENT**

19 **BY MR. ERICKSON:**

20 MR. ERICKSON: As you've heard today, the

21 corridor is partially on Coteau Properties' land

22 and I'm just here today to say that Coteau supports

23 the route and the corridor and the project.

24 JUDGE HOGAN: Ms. Jacobson, did you have

25 any questions?

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1 MS. JACOBSON: None. Thank you for your
2 testimony.

3 JUDGE HOGAN: Mr. Pelham, any questions,
4 or Mr. Schock?

EXAMINATION

6 **BY MR. PELHAM:**

7 Q. Good morning, Mr. Erickson. Have you been
8 present in the audience hearing -- for the hearing?

9 A. I have.

10 Q. Okay. And there was a question or maybe
11 an issue raised by one of the commissioners about
12 the current mine permit and any consultation with
13 the Commission as to this proposed project. Do you
14 know whether or not Coteau mining brought this up
15 with anyone at the Commission as to -- as to the
16 reclamation department?

17 A. Yes. And I can have Sarah Flath
18 testify -- or come up and comment as well, but
19 we've been in contact with Dean Moos and let him
20 know about the project, and we'll continue to meet
21 with him going forward.

22 MR. PELHAM: Okay. I don't have any other
23 questions for you. Thank you for being here.

24 MR. SCHOCK: No questions. Thank you.

25 JUDGE HOGAN: All right. Commissioner

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1 Fedorchak.

2 COMMISSIONER FEDORCHAK: I don't have any
3 questions, but thank you, Brad, for being here.
4 Appreciate it.

5 JUDGE HOGAN: Commissioner Christmann.

EXAMINATION

7 **BY COMMISSIONER CHRISTMANN:**

8 Q. So in your discussions with Mr. Moos or
9 just your own projections -- and let me just lay
10 out an example of where my concern comes from. In
11 several of the power plants in the region, there
12 are ash disposal facilities on-site, and -- and
13 when they become an ash disposal site, the end land
14 use projection changes from agricultural to
15 industrial and actually oversight of it ends up
16 with DEQ. Is that needed here when this becomes a
17 CO₂ sequestration site or is still the end game that
18 it's agricultural or -- I'm just concerned that we
19 get ahead of something else that maybe needs to be
20 done.

21 A. I don't know the answer to that, but I can
22 talk to Sarah in the audience and maybe she's had
23 those conversations.

24 Q. Okay. Do you know, is the -- is the --
25 the -- the final plan for this area still

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1 agricultural?

2 A. I believe so.

3 COMMISSIONER CHRISTMANN: Okay. And if
4 there is anything more to add to that, I would
5 welcome it, but I don't have any other specific
6 questions. That is my -- that is a concern that I
7 have, though.

8 THE WITNESS: Yeah.

9 JUDGE HOGAN: Commissioner Kroshus.

10 COMMISSIONER KROSHUS: All right. Thank
11 you, Your Honor. Brad, thank you for being here.
12 Thank you for everything you do and your industry
13 does to keep the lights on. It's greatly
14 appreciated.

15 THE WITNESS: Thank you.

16 JUDGE HOGAN: All right. Thank you,
17 Mr. Erickson.

18 THE WITNESS: Thank you.

19 JUDGE HOGAN: Do we have other
20 individuals? Sure. Morning. Can I get your name?

21 MS. BATROOT: Vickie Batroot,
22 B-a-t-r-o-o-t.

23 JUDGE HOGAN: Ms. Batroot, did you hear me
24 go through the penalties for perjury earlier today?

25 MS. BATROOT: I did.

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1 JUDGE HOGAN: Do you understand what
2 perjury is?

3 MS. BATROOT: Yes, I do.
4 (Witness sworn.)

5 JUDGE HOGAN: All right. Thank you. Go
6 ahead.

VICKIE BATROOT,

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

STATEMENT

11 **BY MS. BATROOT:**

12 MS. BATROOT: I have comments mostly. We
13 are not adjoining landowners but do own land to the
14 west. We currently have a pretty good bird's-eye
15 view of the well and are surprised at the scope
16 of -- you know, and the magnitude of the work going
17 on there.

18 Today we came with concerns and the need
19 for information, and it has answered a lot of our
20 questions. So this has been an excellent forum for
21 people like us to get educated and informed and
22 that helps to alleviate concerns.

23 So I understand today is about the
24 pipeline. Our deeper concern, no pun intended, is
25 the wells. This is, as Commissioner Fedorchak

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1 referred to, an ongoing issue that's going to be
 2 more and more common, I think, for our state.
 3 And as we embark on more and more of this,
 4 I implore everyone who's involved technically to
 5 keep people like us informed. It's -- it's a big
 6 concern, what is going on a mile below the surface.
 7 And I would believe there are experts -- subject
 8 matter experts deeply involved and have the
 9 answers. And just, again, encourage information
 10 disseminated at forums like this in, in the
 11 newspapers, Q and A sessions, et cetera.
 12 So I just wanted to make that request
 13 formally.
 14 JUDGE HOGAN: Thank you.
 15 THE WITNESS: Thank you.
 16 JUDGE HOGAN: Hang on, there might be some
 17 questions for you.
 18 Ms. Jacobson, did you have any questions?
 19 MS. JACOBSON: None, Your Honor.
 20 JUDGE HOGAN: Mr. Pelham?
 21 MR. PELHAM: Thanks for being here. No
 22 questions.
 23 MR. SCHOCK: No questions.
 24 JUDGE HOGAN: Commissioner Fedorchak.
 25 COMMISSIONER FEDORCHAK: Sure. Thank you,

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1 Mrs. Batroot. Really appreciate you and your
 2 husband coming today and taking the time to get
 3 more informed about this project. I agree, I think
 4 there's a lot more information that needs to be
 5 shared about how CO₂ storage works and if we have
 6 resources that lots are talking about having in
 7 terms of the correct geology for it, what does that
 8 mean. And so I share your interest in learning
 9 more, and I know that we are good about digging and
 10 asking and doing those things and I'm sure that the
 11 Industrial Commission will as well.
 12 So I do encourage you to participate in
 13 that permitting process. It sounds like there is a
 14 public hearing required for those, and I would
 15 assume that there you'll find the experts on that
 16 particular subject matter and can hopefully have an
 17 opportunity to offer concerns and -- and push in
 18 areas where you are getting the right answers.
 19 So I encourage you to participate in that
 20 too, and hopefully as more and more of these become
 21 more common, I'm sure the media will be covering
 22 them and that information will then become
 23 available in the public too. So thank you.
 24 THE WITNESS: Very good.
 25 JUDGE HOGAN: Commissioner Christmann.

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EXAMINATION

1 **BY COMMISSIONER CHRISTMANN:**
 2 Q. Vickie, I'm again thinking this could lead
 3 to an "oh, yeah, it's been a long time moment," but
 4 I'm -- I'm trying to think of where -- where is
 5 your land or can you explain to me?
 6 A. We are west of County Road 13, which runs
 7 due north from Zap. Ten miles north of Zap.
 8 Q. So like Walter; right?
 9 A. Yes. My dad, yes.
 10 Q. Okay. That -- now I'm in perspective.
 11 And -- and I would say, too, so this will -- unless
 12 there's something that I don't foresee, it'll
 13 probably be our only public hearing on this, but
 14 the -- maybe work sessions or certainly our actions
 15 are all public, and -- and you can -- I don't know
 16 if you saw the case number that's assigned to this,
 17 but you can follow things that we do on our
 18 website. And I'm not sure exactly how the
 19 Industrial Commission does notices, but I'm
 20 assuming that they do public notices for their
 21 meetings and such.
 22 And hopefully as that develops, you can
 23 stay informed on that too, but ours are certainly
 24 open to the public always and -- and recordings are

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1 available and everything. So hopefully that helps.
 2 A. It does immensely. Thank you.
 3 COMMISSIONER CHRISTMANN: Good to see you
 4 again.
 5 THE WITNESS: Good to see you.
 6 JUDGE HOGAN: Commissioner Kroshus.
 7 **EXAMINATION**
 8 **BY COMMISSIONER KROSHUS:**
 9 Q. Good morning, Vickie. Just thank you --
 10 A. Good morning.
 11 Q. -- for the points you make. They're
 12 excellent, and I hope the Industrial Commission
 13 is -- is listening. I'm sure members of the press
 14 are. It helps to get the information out. And if
 15 I understand correctly, it's not that you oppose
 16 the project, it's -- it's that you just want more
 17 information to know that it's safe and you don't
 18 have any long-term concerns with where you're at?
 19 A. That's our goal is to be informed,
 20 concerned, but not opposing. Exactly.
 21 COMMISSIONER KROSHUS: Right. Well, and
 22 your testimony today, it should serve as a
 23 catalyst, so it's terrific that you're here and
 24 really appreciate your comments.
 25 THE WITNESS: Thank you.

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1 JUDGE HOGAN: Thank you.

2 Do we have other individuals that wish to

3 provide testimony? Come on up.

4 MS. FLATH: Good morning.

5 JUDGE HOGAN: Can I get your name? Good

6 morning.

7 MS. FLATH: Sarah Flath, spelled F, as in

8 Frank, l-a-t-h, and I'm the environmental manager

9 at Coteau Properties Freedom Mine.

10 JUDGE HOGAN: Before you testify this

11 morning, did you hear me go through the penalties

12 for perjury earlier?

13 MS. FLATH: I did.

14 JUDGE HOGAN: And do you understand what

15 perjury is?

16 MS. FLATH: I do.

17 (Witness sworn.)

18 JUDGE HOGAN: Thank you. Go ahead.

19 **SARAH FLATH,**

20 being first duly sworn, was examined and testified

21 as follows:

22 **STATEMENT**

23 **BY MS. FLATH:**

24 MS. FLATH: To respond to some of the

25 questions that Commissioner Christmann had and

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1 others, I have been in discussion with the director

2 of the reclamation division, Dean Moos, about this

3 project, so far fairly informally, but just as

4 recent as last week Friday. And he did mention

5 that, you know, there might be some questions as to

6 the industrial land use, the future, how we treat

7 that.

8 And I think at this time it's a little

9 premature to know, but the parallel you drew with

10 the ash pit, that was bond released as industrial

11 land use and then excluded from the permit. And

12 the size of that project is -- and the more

13 permanent nature of it is probably a little

14 different than this, but we'll have to continue to

15 evaluate that going forward is kind of how I left

16 it with the director, Director Moos.

17 And so we as the holder of the surface

18 mine permit, any activity that goes on within that

19 permit until it is bond released, we can act as

20 sort of a liaison to provide information to get

21 that from Basin and DGC and provide that to the

22 reclamation division so that they're informed of

23 this project.

24 Any further questions or information you'd

25 like?

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1 JUDGE HOGAN: Do you want to go first?

2 COMMISSIONER CHRISTMANN: Do you want me

3 to?

4 JUDGE HOGAN: Yeah, you can.

5 COMMISSIONER CHRISTMANN: Well, no, I

6 really don't have any other questions. But thank

7 you for staying in touch with them. I guess I

8 wasn't aware, and so please continue to do that,

9 because if -- if there are changes that need to be

10 made on the permit, we don't want this getting

11 ahead and then end up getting things out of order,

12 and -- and -- and if you keep working with Dean and

13 the team up there, I'm sure we can keep things

14 moving on the right track. So thank you for doing

15 that and for being here to explain.

16 THE WITNESS: Yeah. Absolutely. And we

17 had -- we had talked -- Dean and I had talked kind

18 of early on before there was any site disturbance

19 even for the initial test well about this, and we

20 had both agreed that this might not be surface

21 mining activities, but he -- he did request to stay

22 informed and we'll do that.

23 COMMISSIONER CHRISTMANN: Okay.

24 JUDGE HOGAN: All right. Ms. Jacobson,

25 did you have any questions?

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1 MS. JACOBSON: None, Your Honor.

2 JUDGE HOGAN: Mr. Pelham?

3 MR. PELHAM: No, Your Honor.

4 JUDGE HOGAN: Mr. Schock?

5 MR. SCHOCK: No.

6 JUDGE HOGAN: Commissioner Fedorchak?

7 COMMISSIONER FEDORCHAK: No. Thank you.

8 JUDGE HOGAN: Commissioner Kroshus?

9 COMMISSIONER KROSHUS: No questions.

10 Thank you for the information.

11 JUDGE HOGAN: Well, thank you for the

12 follow-up.

13 THE WITNESS: Thank you.

14 JUDGE HOGAN: Do we have other individuals

15 that wish to testify? Morning.

16 MS. TRHLIK: Morning.

17 JUDGE HOGAN: Can you state your name for

18 the record.

19 MS. TRHLIK: My name is Pamela Trhlik,

20 P-a-m-e-l-a T-r-h-l-i-k.

21 JUDGE HOGAN: And, Ms. Trhlik, did you

22 hear me go through the potential penalties for

23 perjury earlier this morning?

24 MS. TRHLIK: Yes.

25 JUDGE HOGAN: And do you understand what

119

1 perjury is?

2 MS. TRHLIK: Yes.

3 (Witness sworn.)

4 JUDGE HOGAN: All right. Go ahead.

5 **PAMELA TRHLIK,**

6 being first duly sworn, was examined and testified

7 as follows:

8 **STATEMENT**

9 **BY MS. TRHLIK:**

10 MS. TRHLIK: My name is Pamela Trhlik. I

11 am the director of governmental affairs and new

12 business development for the Laborers'

13 International Union of North American, Local 563,

14 here in the state of North Dakota.

15 We have been very excited about what

16 really is coming down the pike for North Dakota in

17 the next decade. After the Williston Basin

18 conference when the Governor announced, you know,

19 carbon neutral by 2030, there are so many projects

20 planned, and in the past the laborers have been

21 just a huge part in North Dakota for decades. And

22 I look at the work that we have done for Basin

23 Electric and all of their facilities, specifically

24 for Dakota Gas, hundreds and hundreds of thousands

25 of hours that our members have put into these

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1 facilities, and so we're just here today to really

2 put our support behind this project.

3 And I think, you know, just the average

4 person in the public would think a 6.8-mile

5 pipeline, you know, what does that really mean for

6 North Dakota? My coworker, Steven Cortina, when we

7 were driving up here this morning, we were really

8 talking about that really truly this project is a

9 spark, just a spark that is going to explode into

10 something huge for the state of North Dakota.

11 We recently met with Lynn Helms with the

12 Department of Mineral Resources -- or the Division

13 of Mineral Resources, and what's going to happen

14 with carbon capture and what's going to happen with

15 hydrogen and, you know, there's other plans up in

16 the Bakken with, you know, ethane fuel and storage,

17 you know, we look at this and Lynn said it, too,

18 that once again North Dakota is going to explode on

19 the scene throughout the U.S. and internationally

20 for what's going to happen in this state with

21 carbon capture.

22 We look at what's coming right after this

23 pipeline project and what will be happening with

24 Minnkota and Coal Creek and Blue Flint and Summit

25 Ag, it is just the beginning of changing the face

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1 for the state of North Dakota in this realm.

2 And I look at what we have done as an

3 entire union in North America. We have nearly

4 600,000 members in the U.S. and Canada, and what

5 we've done in traditional energy sources: coal,

6 oil, natural gas, and how we have moved as a union

7 into the renewables with wind and with solar. And

8 here is another area that we are standing up for,

9 and we are going to be here every step of the way

10 with every organization in North Dakota. Every one

11 of the major customers we -- we work for and the

12 major contractors that we work for that the

13 laborers' unions wants to be on the forefront of

14 helping build all of this in the state of North

15 Dakota and change this energy scene.

16 So we are just here to throw our support

17 behind Dakota Gas and Basin Electric.

18 JUDGE HOGAN: Ms. Jacobson, any questions?

19 MS. JACOBSON: None, Your Honor.

20 JUDGE HOGAN: Mr. Pelham?

21 MR. PELHAM: No, Your Honor.

22 JUDGE HOGAN: Mr. Schock?

23 MR. SCHOCK: No questions.

24 JUDGE HOGAN: Commissioner Fedorchak.

25 COMMISSIONER FEDORCHAK: Thank you,

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1 Pamela. Really appreciate your comments this

2 morning and your guys' constant involvement. It

3 really does matter so much to be here speaking on

4 behalf of all the workers who do make so much

5 happen in our state and then also in the nation.

6 And just one thing I would encourage you

7 taking back to your higher-ups is you have -- you

8 speak on behalf of a very important group of people

9 who really make our country run. And to the extent

10 that you can be out there speaking on behalf of all

11 of the -- all of the above, you know, there's -- I

12 have concerns just -- I think that renewable energy

13 is developing, it's exciting, it is a whole new

14 frontier, but we're in this time of transition, and

15 we can't get ahead of the technology or there's

16 going to be a lot of really terrible things that

17 happen.

18 And so you guys have unique positions

19 representing who you do to speak on behalf of a

20 thoughtful and deliberate transition and safely

21 that keeps the reliability in the forefront. And

22 so I hope that your union advocates in that way,

23 not just in North Dakota but nationally as well.

24 So I hope you take that back up to your higher-ups.

25 THE WITNESS: We definitely do because we

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1 look at coal in this state and all of the other
 2 states where we work, and that it has been a
 3 mainstay for us. And we often -- you know, we're
 4 always at wind farm hearings or we're always at the
 5 different renewables, but at the core of what we
 6 have done in North Dakota, we are fighting just as
 7 hard behind every person that works in a coal mine
 8 and every person that works in these plants because
 9 it is important to hundreds of our members and
 10 their families in the state of North Dakota and
 11 across the nation.

12 JUDGE HOGAN: Commissioner Christmann.
 13 COMMISSIONER CHRISTMANN: Yeah, thanks for
 14 being here and for your enthusiasm and, again, I
 15 would just emphasize that while nobody ever likes
 16 to -- to be the wet blanket on something that
 17 people are excited about, we like to see -- or I
 18 like to see development, too, but our
 19 responsibility here is to make sure that before we
 20 jump into it, that in this case the pipeline is
 21 going to be safe for the environment and for the
 22 people around it and everything and then the
 23 Industrial Commission same with the well sites. So
 24 we want to make sure that all those things are in
 25 place before we jump forward with the project.

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1 But appreciated your enthusiasm for this
 2 one.

3 THE WITNESS: As our work with pipelines
 4 over decades, I mean one of our core functions is
 5 coming in and starting with the environmental, and
 6 then we end our job with coming back, and so it's
 7 very important to us as well.

8 COMMISSIONER CHRISTMANN: And a great
 9 record of carrying out the projects safely for the
 10 companies developing them as well as your workers.
 11 So congrats on that.

12 THE WITNESS: Thank you.
 13 JUDGE HOGAN: Commissioner Kroshus.
 14 COMMISSIONER KROSHUS: Pamela, thank you
 15 for being here. I appreciate the fact that this
 16 also signals getting back to a more normal routine
 17 to --

18 THE WITNESS: You missed me.
 19 COMMISSIONER KROSHUS: -- just to see --
 20 to see the regulars in the room. Absolutely.
 21 Absolutely. So hopefully we're getting on the tail
 22 end of closing the chapter which was 2020, the year
 23 that was interesting, to say the least.

24 But thank you for the work you do in the
 25 energy sector, particularly as it relates to this

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1 industry.

2 And the one reality for everyone is that
 3 pipeline safety -- we talk about smart pig
 4 inspection intervals, we talk about right-of-way
 5 inspections, we talk about aerial surveillance of
 6 these pipelines, SCADA systems, et cetera, but the
 7 reality is that pipeline safety starts with how the
 8 pipe is placed in the ground, the welding that
 9 occurs, and really appreciate the level of training
 10 your folks go through and -- and the continued
 11 training they receive. I've toured some of your
 12 facilities and it's impressive, and it gives me a
 13 great degree of confidence when you're on a job
 14 that it's going to be done right. So thank you for
 15 the work you did.

16 THE WITNESS: Thank you. You know, COVID
 17 shut down -- that little virus shut down -- we have
 18 opened a new training center in North Dakota
 19 because our training prior to this was all held in
 20 Minnesota. And we're developing that, and last
 21 year we did not get the chance to do an open house
 22 for customers, for contractors, for regulatory
 23 agencies and personnel, but we will be planning
 24 that in the future.

25 COMMISSIONER KROSHUS: Look forward to it.

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1 Thank you.

2 THE WITNESS: Thank you.
 3 JUDGE HOGAN: Thank you.

4 Is there anybody else that wishes to
 5 provide testimony this morning? All right. Well,
 6 seeing none, that will conclude the testimony
 7 portion of our hearing, and we will move to closing
 8 remarks -- I'm sorry -- closing remarks.

9 Ms. Jacobson, did you have any closing
 10 remarks?

11 MS. JACOBSON: No closing remarks, but,
 12 Your Honor, if we could just clarify the exhibits.
 13 I think we have the -- Mr. Solie testified about
 14 the wetland delineation reports and we do have a
 15 copy of that. If we could enter that into evidence
 16 as Exhibit No. 11?

17 JUDGE HOGAN: Sure. Or I should ask,
 18 Mr. Pelham, any objection?

19 MR. PELHAM: I think -- could I just see
 20 it? Thanks. These are copies here?

21 MR. SOLIE: Yes.
 22 MR. PELHAM: Okay.

23 JUDGE HOGAN: I'm going to need one for
 24 the record.

25 MR. PELHAM: Yeah, I know. I'm just --

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1 it's only three pages, it looks like, so --

2 JUDGE HOGAN: If anybody wants to look at

3 it --

4 MR. PELHAM: I just want to read it in

5 case we have any questions on it. May as well take

6 care of it now. No objection to the Exhibit 11.

7 JUDGE HOGAN: All right. Then that memo

8 or report -- I have a copy, yep -- will be marked

9 as Exhibit 11 and entered into the record.

10 Was there any other follow-up information?

11 MS. JACOBSON: Was there Number 12, which

12 would be a map of the residences located within a

13 thousand feet -- or one mile of the proposed

14 project?

15 MR. PELHAM: That's my understanding as

16 well. That would be the only other -- well, that

17 would be the only late-filed exhibit.

18 MS. JACOBSON: Yes.

19 JUDGE HOGAN: Okay. And did you want to

20 set a deadline for submitting that?

21 MS. JACOBSON: By the end of the week we

22 can provide it.

23 JUDGE HOGAN: Okay. So when that comes

24 in, we'll label that Exhibit 12.

25 MS. JACOBSON: Great. Thank you, Your

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1 Honor.

2 JUDGE HOGAN: All right.

3 MS. JACOBSON: And then my only other

4 comment, if I may, is that there is some question

5 regarding jurisdiction because of House Bill 1096

6 that would exempt some CO₂ sequestration facilities,

7 storage facilities. So if at all possible, you

8 know, we did file our application this spring prior

9 to the legislation being enacted. It will be

10 effective August 1. So if at all possible, just to

11 clarify that there's no concern regarding

12 jurisdiction, if possible we would ask for a

13 decision prior to August 1 when the law is

14 effective, just to avoid any jurisdictional

15 questions.

16 I have nothing else, Your Honor.

17 JUDGE HOGAN: All right. Mr. Pelham, did

18 you have any closing remarks or comments?

19 MR. PELHAM: I do not. Thank you.

20 JUDGE HOGAN: All right. Commissioner

21 Fedorchak.

22 COMMISSIONER FEDORCHAK: I'll just be

23 brief. Thank you, everybody. It was a good

24 hearing, good information provided by the company.

25 Thanks to the folks who came up and spoke and gave

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1 us a little more information on -- on the project.

2 And we will move ahead as quickly as we

3 can. I would assume that the company will get its

4 proposed findings, et cetera, in in a timely manner

5 and that would allow us to have everything we need

6 to consider in the time you've outlined.

7 So thank you.

8 JUDGE HOGAN: Commissioner Christmann.

9 COMMISSIONER CHRISTMANN: I have no other

10 comments except for to thank everyone for being

11 here.

12 JUDGE HOGAN: And Commissioner Kroshus.

13 COMMISSIONER KROSHUS: Well, since I'm

14 keeping everyone from exiting the hearing, I don't

15 have anything else. Thank you. Appreciate it.

16 JUDGE HOGAN: All right. Do you -- did

17 you want to set a deadline? I assume you're going

18 to be submitting proposed findings.

19 MS. JACOBSON: Next Monday we will -- we

20 can have them filed, but likely before then.

21 JUDGE HOGAN: Okay. So next Monday -- I

22 don't have a calendar in front of me -- will be the

23 deadline.

24 MR. PELHAM: That would be the 19th. Is

25 that right?

130

1 JUDGE HOGAN: Yep. That's right. So

2 July 19 would be the deadline for the proposed

3 findings.

4 MS. JACOBSON: Thank you, Your Honor.

5 JUDGE HOGAN: All right. Anything

6 further?

7 Well, then I will just note for the record

8 that it's 11:03 a.m. and that we'll conclude our

9 hearing for this morning. Thank you, everyone.

10 (Concluded at 11:03 a.m., the same day.)

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1 CERTIFICATE OF COURT REPORTER

2

3 I, Stephanie A. Smith, a Registered

4 Professional Reporter,

5 DO HEREBY CERTIFY that I recorded in

6 shorthand the foregoing proceedings had and made of

7 record at the time and place hereinbefore

8 indicated.

9 I DO HEREBY FURTHER CERTIFY that the

10 foregoing typewritten pages contain an accurate

11 transcript of my shorthand notes then and there

12 taken.

13 Dated at Bismarck, North Dakota, this 29th

14 day of July, 2021.

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Stephanie A. Smith

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Registered Professional Reporter

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